

F. VENDOR MANAGEMENT SYSTEM

Overview

Introduction The Vendor Management System ensures the ability for a WIC participant to redeem their food instruments for prescribed WIC food items and monitors the integrity of the food delivery system by evaluation of:

- criteria for authorization of new WIC food vendors
 - criteria for renewal of WIC food vendors
 - compliance with the Utah WIC Program authorized food list
 - high risk vendor identification
 - vendor monitoring
 - compliance purchasing
 - vendor sanctions
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F.1. Description

Description of Utah Food Delivery System

1. Utah utilizes a retail purchase delivery system. This system is implemented with the use of the Utah WIC I.D. Card/Voucher Packet and food instruments (vouchers). An I.D. Card/Voucher Packet is issued to each family (endorser/participant) during initial certification and must be presented to the vendor when redeeming any Utah WIC food instrument (voucher).
2. Food instruments are defined as any voucher, check, electronic benefits transfer card (EBT), coupon or other document which is used to obtain supplemental foods. Food instruments are issued by the local agencies which prescribe specific foods to each participant. Participants can then redeem their food instruments at any Utah authorized WIC vendor.
3. At the authorized Utah WIC vendor, the participant exchanges the WIC food instrument for the appropriate authorized WIC food item(s) in the quantities and sizes specified on the food instrument. The vendor ensures that the food instrument is properly completed and matching countersignature obtained. The vendor places their specific authorized vendor stamp on the food instrument and deposits the food instrument into the bank similar to other checks. The Bank screens for the following edit criteria

● Missing or unauthorized vendor number stamp	● Signatures/countersignatures missing or that do not match.
● Missing or altered purchase price/amount	● Alteration of food item quantities
● Food instruments redeemed prior to the First Day To Use and more than 60 days from the Last Day To Use	● Food Instruments redeemed greater than the NOT TO EXCEED limit or greater than the maximum value of the food instrument (\$95).
● Food instruments that have no record of issuance by the local clinic	● Food instruments that have been voided by the clinic as "S" Stolen or "H" or in-hand
● Food instruments that have been identified as a "stop payment" by the State Agency	● Food Instruments missing the date of redemption or the date of redemption is before the First Day to Use or after the Last Day to Use

- A. If all edit criteria are met, the Bank pays the food instrument. If any edit criteria is missing or incorrect, the bank returns the food instrument to the redeeming vendor unpaid.
4. Multi-food instrument issuance: Food instruments may be issued to participants either one month or two months at a time. All food instruments are dated and must be used within the acceptance period that is indicated on the front.
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F.2. Definitions in Food Delivery

Definitions in Food Delivery

1. **Vendor** - a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the State agency to provide authorized supplemental foods to participants under a retail food delivery system. Each store operated by a business entity constitutes a separate vendor and must be authorized separately from other stores operated by the business entity. Each store must have a single, fixed location
 2. **Inventory Audit** – The examination of food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient enough quantities of WIC food items to provide participants the quantities specified on food instruments redeemed by the vendor during a given period of time.
 3. **Authorized supplemental foods** – Those WIC food items authorized by the State agency for issuance to a particular participant.
 4. **Compliance buy** – A covert, on-site investigation in which a representative of the Program poses as a participant, parent or caretaker of an infant or child participant, or proxy, transacts one or more food instruments and does not reveal during the visit that he or she is a program representative.
 5. **Vendor Overcharge** – Intentionally or unintentionally charging the State agency more for authorized WIC food items than is permitted under the vendor agreement. For mandatory sanctions to be assessed against a vendor, overcharging must be established by a pattern of redemptions..
 6. **Vendor violation** – Any intentional or unintentional action of a vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the vendor agreement or Federal or State statutes, regulations, policies, or procedures governing the Program.
 7. **Investigation** – a method used by the State Agency to determine if violations are occurring.
 8. **Violation** – an infraction of program regulations, policies or agreements.
 9. **Sanction** – an administrative action taken as a result of a violation.
 10. **Pattern** – based on the number and severity of the incidences of the violation
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F.3. Names of Companies Participating in Food Delivery

Specific Companies Participating in Food Delivery

1. Names of companies, excluding authorized food vendors, contracted by the state agency to participate in the operation of food delivery.
 - A. Banking redemption/rejection procedures: Security State Bank, Howard Lake, Minnesota.
 - B. Infant formula rebate: Milk-base infant formula: Mead-Johnson (Enfamil with Iron; **Lipil**); Soy-base infant formula: Mead-Johnson (Enfamil Soy)
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F.4. Authorized WIC Vendors and Vendor Lists

Authorized WIC Vendors in Utah

1. In order to accept Utah WIC food instruments, vendors must sign an agreement with the State WIC Office. It is the responsibility of each local agency to educate the WIC participants as to which vendors are authorized.
 2. To enable a participant to locate authorized WIC vendors:
 - A. Vendor lists will be provided to local clinics once a year with quarterly updates.
 - B. Vendor lists and quarterly updates will be posted for participants to examine. The vendor lists are shown to the participant during certification and food instrument issuance. Not all stores are authorized Utah WIC vendors.
 - C. WIC vendors will display a WIC poster in a prominent place in their store.
 - D. There are five categories of vendors that include three categories of grocery stores (chain, independent and frontier), pharmacies, and dairies.
 - 1) **Grocery stores** offer the largest selection of WIC food items and have agreed to carry a minimum stock of these foods. (They do not have to stock all WIC foods)
 - 2) **Dairies** can only provide eggs, milk, and cheese
 - 3) **Pharmacies** are only authorized to provide special infant formula not available at grocery stores
 - 4) *The participant should be aware that they may only buy limited items from **pharmacies** and **dairies***
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F.4. Authorized WIC Vendors and Vendor Lists (continued)

Confidentiality of vendor information

3. Confidentiality of vendor information
 - A. Confidential vendor information is any information about a vendor (whether it is obtained from the vendor or another source) that individually identifies the vendor, except for vendor's name, address and authorization status. Except as otherwise permitted, the State agency must restrict the use or disclosure of confidential vendor information to: 1) Persons directly connected with the administration or enforcement of the WIC Program or the Food Stamp Program who the State agency determines have a need to know the information for the purposes of these programs, 2) Persons directly connected with the administration or enforcement of any Federal or State law; and 3) a vendor that is subject to an adverse action, including a claim, to the extent that the confidential information concerns the vendor subject to the adverse action and is related to the adverse action.
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F.5. Vendor Requests for Participant Identity

Vendor Requests for Participant Identity

1. State or local agencies may not give participant identity, WIC Program status information, address, or telephone number to any vendor. This and all clinic information should be considered private and confidential. Please refer any vendor request for participant identity or Program status information to the State WIC Office.
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F.6. Food instruments Greater than "Not To Exceed" Limit & Maximum Amount

Food instruments Above the Not to Exceed Limit

1. Vendors are instructed not to accept any food instrument which is over the "NOT TO EXCEED" limit printed on the on the front of the food instrument. The vendor will give the food instrument back to the participant and tell the participant to return to the clinic of issuance to have the original food instrument(s) evaluated for errors and possible replacement to accommodate the participant. Void the original food instrument(s) and issue replacement food instrument(s) following standard issuance procedures.
 2. The bank has been instructed to reject any food instrument that is presented for greater than the maximum amount (\$95.00). However, on rare occasions, a specialized infant formula price may exceed the \$95.00 per food instrument amount. The bank has been instructed to contact the State WIC Agency on these special infant formula cases before rejecting the food instrument. If the special infant formula price can be verified, an over-ride of the maximum amount will be authorized. The State Agency will document the food instrument number, participant ID, type, and quantity of infant formula and the total amount authorized.
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F.7. Food instruments Returned to Vendor Unpaid by the Bank

**Food
instruments
rejected by the
Bank**

1. If a food instrument that is presented to the bank:

● is missing signature/ countersignature	● has a countersignature that does not match
● is missing a vendor stamp or using unauthorized vendor stamp	● has a missing or altered numerical purchase price
● has a purchase price that exceeds the NOT TO EXCEED limit or exceeds the maximum value of the food instrument	● has altered food item quantities
● was redeemed prior the First Day To Use or over sixty (60) days from the "Last Day To Use" or the redemption date was missing	● has no issuance record from the clinic
● has been identified by a "H" in hand void from the clinic	● has been identified as a stop payment by the State Agency

the food instrument will be returned by the bank to the vendor.

2. If the food instrument has been rejected for missing the authorized vendor stamp and/or missing the redemption date ONLY, the vendor is allowed to place the vendor stamp and/or stamp the date of redemption on the front and resubmit the food instrument back to the bank.
 3. For all other rejections, the vendor must submit the food instrument(s) to the State Agency for validation. The State Agency will evaluate the food instrument for all valid redemption criteria. The State Agency may make price adjustments to the purchase price on food instruments submitted by the vendor for redemption to ensure compliance with the price limitations applicable to the vendor. The State Agency must validate the food instrument before the bank will consider payment. No other exceptions are allowed. Submission of food instruments or inquiries of food instruments not received from the State Agency after ninety (90) days cannot be paid or validated and the food instrument is considered void.
 4. It is the State Agency's responsibility to resolve any food instrument problem(s) and/or validate for payment any food instrument for the prescribed WIC foods. The vendor is only reimbursed the actual cost of the WIC foods on the food instrument. If the cost of the prescribed WIC foods does not equal the rejected food instrument total, the may adjust the total purchase price to match the prescribed foods listed on the front. The local agency must never try to handle a replacement or validation of a rejected WIC food instrument.
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F.8. Local Agency Vendor Complaint Form

Local Agency Complaint Form

1. The Local Agency Vendor Complaint Form should be used to inform the State WIC Agency of complaints, problems, or questions that participants or local agencies have regarding vendors. Reports concerning individual food instruments should include the food instrument number(s) involved, date of issuance, name of participant, ID number, and depending on the problem, the other food instruments issued to the family for that month. Complaints concerning an individual cashier should include a name or a description of the cashier, date and time of incident, and details of the incident.
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F.9. Food Price Reporting List

Food Price Reporting List

1. The Utah Food Price Reporting List is used to obtain food item prices directly from the vendor. These prices are used to create a price list for each vendor (number) in order to generate post-hoc comparison data and verify/update the vendor category food price list which is the database for food instrument production of the Not to Exceed limit.
 2. Prices for supplemental foods are submitted by the vendor on a quarterly basis, acquired through high risk/representative monitoring, periodic reviews, initial evaluations, compliance purchases and as requested by the State Agency.
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F.10. Claims Collection

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| Review of Food Instruments | 1. Review of Food Instruments - The State Agency reviews every WIC food instrument that is redeemed for over 10% of the estimated cost based on the vendor of redemption. These food instruments are screened by the State Agency for potential participant and/or vendor related abuse or errors including overcharge. |
| Vendor Overcharge | 2. Vendor Overcharge – Intentionally or unintentionally charging the State agency more for authorized WIC food items than is permitted under the vendor agreement. For sanctions to be assessed against a vendor, overcharging must be established by a pattern of redemptions |
| Claims for Overcharge | 3. Claims for Overcharge – All food instruments received by the State agency that were not rejected for redemption greater than the Not to Exceed Limit will be screened for overcharge. If the disputed amount is greater than the estimated cost in accordance with the vendor's category plus five percent (+5%), the State Agency mails a letter to the vendor requesting a reimbursement for the overcharge or a justification of the cause of the overcharge. A copy of the food instrument that overcharged the WIC Program will be enclosed with the notification. If justification cannot be established, the vendor is asked to reimburse the Utah WIC Program the difference between the amount the food instrument was cashed for and the actual price of the supplemental foods provided. |
| Delay of Payment or Establishment of a Claim | 4. Delay of Payment or Establishment of a Claim - When the State agency determines the vendor has committed a vendor violation that affects the payment to the vendor, the State agency may delay payment or establish a claim in the amount of the full purchase price of each food instrument that contained the vendor overcharge or other error.

5. Opportunity to justify or correct – When payment for a food instrument is delayed or a claim established, the State agency must provide the vendor with an opportunity to justify or correct the vendor overcharge or other error. If satisfied with the justification or correction, the State agency must provide payment or adjust the proposed claim accordingly.

6. Timeframe and offset - The State agency must deny payment or initiate claims collection action within 90 days of either the date of detection of the vendor violation or the completion of the review or investigation giving rise to the claim, whichever is later. Claims collection action may include offset against current and subsequent amounts owed to the vendor.

7. Food instruments redeemed after the specified time – With justification and documentation, the State agency may pay vendors for food instruments submitted for redemption after the specified period for redemption. If the total amount submitted at one time exceeds \$500.00, the State agency must obtain the approval of the FNS Regional Office before payment. |
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F.10. Claims Collection

8. The vendor must pay any claim assessed by the State agency. In collecting a claim, the State agency may offset the claim against current and subsequent amounts owed to the vendor. In addition to denying payment or assessing a claim, the State agency may sanction the vendor for vendor overcharges or other errors in accordance with the State agency's sanction schedule.

F.11. Vendor Authorization

Vendor Authorization

1. **Vendor Authorization** – Vendor authorization is the process by which the State Agency evaluates, selects, and enters into agreements with stores that apply or subsequently reapply to be authorized as WIC vendors.

Vendor Limiting & Selection Criteria

2. **Vendor Limiting And Selection Criteria** – The Utah WIC Program will authorize an adequate number of vendors in order to provide access to acquire WIC food items and provide a vendor population that is cost-effective and can be efficiently managed by the State and local WIC agencies. Any vendor that is rejected cannot reapply for application of Limiting or Selection Criteria for thirty (30) days. Application documentation and records are valid for forty-five (45) days from the on-site preauthorization visit.

Vendor Limiting Criteria

3. **Vendor Limiting Criteria** – Vendor limiting criteria is established by the State agency to determine the maximum number and distribution of vendors it authorizes pursuant to §246.12(g)(2) of the Federal Register.
 - A. When a vendor requests application for participation, the State Agency will examine the following Vendor Limiting Criteria to determine if the vendor is needed for the clinic service area prior to authorization:

1. <u>Participant/vendor zip code ratio limitation:</u> No vendor shall be accepted nor have their agreement renewed on the Utah WIC Program if the participant/vendor ratio is less than 150:1 for matching participant/vendor zip codes in Cache, Weber, Davis, Salt Lake and Utah Counties or less than 50:1 for matching participant/vendor zip codes in the remaining counties or for out of State vendors	3. <u>Limiting Criteria Exceptions:</u> Exceptions to the zip code participant/vendor ratio are: 1) Pharmacies; 2) Military Commissaries; 3) Vendors in rural areas where the vendor's zip code is different from the majority of participant's zip codes or if the vendor is located outside the State of Utah.
2. <u>Competitive price and price limitations:</u> All vendors will be ranked according to their retail price of their WIC food commodities from the lowest to the highest. Only the required number of vendors with the lowest priced WIC food items according to the vendor's price survey, needed to maintain the minimum participant/vendor ratio, will be accepted for authorization, or allowed to renew the vendor agreement.	• <i>Additional vendors beyond the minimum participant/vendor ratio may be accepted or allowed to renew, if their prices on WIC food items are within 5 percent (5%) of the lowest priced vendors in the zip code location.</i>

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F.11. Vendor Authorization, Continued

Selection Criteria

4. **Vendor Selection Criteria** – Vendor selection criteria means the criteria established by the State agency to select individual vendors for authorization consistent with the requirements in §246.12(g)(3) of the Federal Register.
 - A. Having completed the Vendor Limiting Criteria, the vendor is now in a position to be evaluated for selection to the Utah WIC Program. The vendor agrees to an on-site preauthorization evaluation and training by an authorized Utah WIC vendor representative.
 - B. The State agency will assign the on-site-pre-authorization visit to a local agency vendor representative who has the responsibility for the evaluation and training. The authorized Utah WIC vendor representative has fifteen (15) days from the vendor request for an on-site pre-authorization evaluation, after the limiting criteria have been applied, to conduct the actual on-site visit. The State agency has ten (10) days from the date the completed on-site pre-authorization evaluation is received at the State Agency until a notification letter is sent regarding authorization or rejection.
 - C. The vendor agrees to meet or exceed the minimum Selection Criteria in order to be accepted as a Utah authorized WIC vendor.

1. <u>Competitive price and price limitations:</u> The price of each WIC eligible food item does not exceed by five (5) percent the average price of the same WIC eligible food in other WIC authorized vendors in the same zip code location. If the majority of the vendors in the zip code location are of one category, then the price comparison will be based on that category of vendor. Where no majority exists, the vendor will be compared to other vendors in the same category.	2. <u>Minimum variety and quantity of supplemental foods:</u> Vendor has on the shelf and in stock the minimum variety and quantity of WIC eligible food items with prices plainly marked on the product or shelf according to the assigned vendor category.
3. <u>Business Integrity:</u> Unless denying authorization of a vendor applicant would result in inadequate participant access, the State Agency may not authorize a vendor applicant if during the last six (6) years the vendor applicant or any of the vendor applicant's current owners, officers, or managers have been convicted of or had a civil judgement entered against them for any activity indicating a lack of business integrity. Activities indicating a lack of business integrity include fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice.	4. <u>Current Food Stamp Program disqualification or civil money penalty for hardship:</u> Unless denying authorization of a vendor applicant would result in inadequate participant access, the State Agency may not authorize a vendor disqualified from the Food Stamp Program or that has been assessed a Food Stamp civil money penalty for hardship and the disqualification period that otherwise have been imposed has not expired.

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F.11. Vendor Authorization, Continued

<p>5. <u>Sale of a store to circumvent WIC sanction:</u> The State Agency may not authorize a vendor applicant if the State Agency determines the store/business has been sold to circumvent a WIC sanction. This criteria will include 1) opening a different store under a new name to circumvent a sanction; 2) selling the store to a relative by blood or marriage to circumvent a sanction; or 3) selling the store to an individual or organization for less than the fair market value to circumvent a sanction.</p>	<p>6. <u>Current WIC disqualification and sanctions:</u> The State Agency may not authorize a vendor applicant if the State Agency determines if: 1) any vendor has been disqualified from Utah or any other State Agency/ITO WIC Program for two (2) or more years as a result of a disqualification activity by the vendor, one of its current employees whose duties include handling WIC food instruments, or owners, officers, directors, or partners; 2) any vendor who has requested a termination from the Utah WIC Program with an outstanding reimbursement for overcharge or Program administrative cost; 3) any vendor has failed to take requested action by the Utah WIC Program within thirty (30) days after notification by certified letter, or failure to provide requested data or records, or failure to allow monitoring of the vendor, or failure to attend or complete required training sessions.</p>
<p>7. <u>Participant activity for vendor authorization:</u> There is an established need for this particular vendor by at least ten (10) WIC participants for clinics serving 500 WIC participants or less within any county; or by twenty (20) WIC participants for clinics serving more than 500 participants in any county</p>	<p>8. <u>Hours of operation:</u> The hours of operation are appropriate for participant access—minimum of 8 hours of operation per day; 3 hours must be A.M.; five (5) days a week; except for dairy, pharmacies, and military commissaries</p>
<p>9. <u>Exceptions to Selection Criteria:</u> Exceptions to Selection criteria #7, and #8 may be made if there are no other WIC vendors within twenty (20) miles or if a vendor is required for participant access</p>	

Procedures for Pre-authorization on-site visit

5. Procedures For Pre-authorization On-Site Visit

- A. After receiving the letter regarding acceptance of the Limiting Criteria, the vendor will be instructed to contact the local WIC agency vendor representative to schedule the on-site pre-authorization visit.
- B. The State Agency/local agency vendor relations representative has twenty (20) days from the initial contact to conduct the on-site pre-authorization evaluation
- C. The Local Agency/State Agency visits the store, (or the dairy delivery person may come to the local agency) taking along a WIC Vendor Training Kit.

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F.11. Vendor Authorization, Continued

- D. The State Agency/local Agency completes the Initial Evaluation Form, Vendor Stocking Requirement Verification Form and Checklist for Initial Vendor Training in the training kit. Training is conducted utilizing the Checklist for Initial Vendor Training (as a training outline).
- E. The Local Agency mails all completed forms to the State Agency and the vendor retains the remainder of the training kit
- F. The Local Agency mails all completed forms to the State Agency and the vendor retains the remainder of the training kit
- G. The State Agency determines if the vendor qualifies
- H. There may up to a ten (10) day processing period from the date of the evaluation visit until the notification of authorization or rejection
- Timeframe on application documentation**
- E. Application documentation is valid forty-five (45) days from the on-site preauthorization visit date
- F. If the local agency/clinic determines that a WIC vendor is no longer in business, either by contact with the vendor or participant information, the local agency/clinic will notify the State WIC office in writing of the closure

Redeeming Food instruments Prior to Authorization

6. Redemption Of Food Instruments Prior to Authorization

- A. Any vendor who attempts to redeem Utah WIC food instruments prior to receiving the authorization letter and the vendor stamp will be subject to rejection of the food instruments and loss of payment plus an additional thirty (30) day waiting period before authorization.

Vendor Authorization Documentation

7. If the Vendor is Authorized:

- A. The State Agency issues a vendor number and mails the vendor stamp, an approval letter and a copy of the WIC Vendor Agreement directly to the approved WIC vendor. A copy of the notification and agreement is sent to the local agency.
- B. The Local Agency vendor representative will keep a file **for vendors that have been authorized in their clinic service area**. This file will contain the following documentation: 1) a Vendor Log which will be utilized to document all contacts with the vendor that are not documented on any other form. The Vendor Log will be a chronological record of these contacts by date; 2) copy of the current Vendor Agreement; 3) copy of Local Agency Vendor Complaint forms; 4) copy of Monitoring Instruments, and 5) any additional correspondence sent to the vendor by the State or local agency.

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F.11. Vendor Authorization, Continued

If the Vendor is not Authorized

8. If The Vendor is Not Authorized:

- A. The State Agency mails an disapproval letter via certified mail stating the reasons for disapproval to the vendor.
- B. State Agency informs Local Agency of the vendor's failure to be authorized by sending a copy of the disapproval letter.
- C. State Agency retains a copy of the disapproval letter, and all evaluation documentation in a file marked Vendor Applications Rejected.
- D. The disapproved vendor cannot reapply for another evaluation for at least thirty (30) days from the date of the disapproval.

Vendor Renewal

9. Renewal of The Vendor Agreement

- A. At the end of the agreement period as assigned by the State Agency, the vendor may be requested to apply for renewal of the agreement. The vendor agrees to read and sign the new agreement, complete all applicable required information, and return the renewal forms and agreement to the Utah WIC Program by the designated time frames. Renewal of the agreement will be based upon both the Vendor Limiting Criteria and Vendor Selection Criteria.
- B. Expiration of a contract or agreement with a food vendor is not subject to appeal.
- C. Neither the State Agency, nor the food vendor has an obligation to renew the contract or agreement.

Notification of Program Changes

10. Notification of Program Changes

- A. The State Agency will notify vendors of changes to Federal or State statutes, regulations, policies and /or procedures governing the Program before changes are implemented. The State Agency will give a minimum notice of thirty (30) days before any changes are implemented.

Conflict of Interest

11. Conflict of Interest

- A. The State agency must ensure that no conflict of interest exists, as defined by applicable State laws, regulations, and policies, between the State agency and any vendor or home food delivery contractor under its jurisdiction.
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F.12. Dairy Vendors

Dairy Vendors

1. **Dairy Vendor** - A sole proprietorship, partnership, cooperative association, corporation, or other business entity that contracts with the State agency to deliver fluid milk, eggs, and cheese only to the residences of participants. Non-permanent and/or mobile food suppliers/vendors and those vendors who pre-select the WIC items will be considered dairy vendors.
2. **Payment** - Home delivery vendors (dairies) will be paid only after the delivery of authorized supplemental foods to participants. A routine procedure must exist to verify **the actual** delivery of authorized food items to participants, and, at a minimum, such verification occurs at least once a month after delivery and records of supplemental foods and bills sent for or payments received for such food items are retained for at least three (3) years. Federal, State, and local authorities must have access to such records.
3. **Procedures:**

Dairy Vendor Procedures

- A. The WIC participant and the authorized WIC dairy vendor will complete the Dairy Vendor/WIC Client Agreement for Participation in Dairy Delivery for the Utah WIC Program prior to any exchange of WIC food items. The completed form will be presented to the local clinic/agency for processing to include the change of food package documentation and vendor category to accommodate dairy delivery issuance.
 - B. The WIC participant will inform the dairy delivery representative what is on each food instrument **before** delivery. The dairy cannot accept any WIC food instruments that contain additional grocery items such as cereal, beans, peanut butter, carrots, etc. If the food instruments contain any of these additional items, the food instruments are to be returned to the WIC client without delivery or exchange of any of the food items.
 - C. The dairy vendor will deliver all the food items on one WIC food instrument at one time. Food items contained on one food instrument cannot be delivered on more than one delivery date. All the items on multiple food instruments can be delivered the same day.
 - D. The dairy vendor will pickup the WIC food instruments in person, requesting to see the ID card and witnessing the countersignature.
 - E. The dairy vendor will supply a monthly-itemized statement to the WIC participant. If no itemized statement or receipt is provided, the WIC participant should not exchange any food instruments and will immediately contact the local WIC agency/clinic or the State WIC office
 - F. A current Dairy Vendor/WIC Client Agreement for Participation in Dairy Delivery form will need to be signed by the WIC participant at the beginning of each new certification period. The current form can be re-signed for one additional certification period if there has not been a revision in the form.
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F.13. Vendor Stamp System

Vendor Stamp System

1. The purpose of the **Vendor Stamp System** is to reconcile the redemption of a WIC food instrument to a specific WIC vendor, analyze redemption patterns, and eliminate the loss of WIC food dollars to unauthorized and abusive vendors.

A. Definition

- 1) The Vendor Stamp System involves the placement of the Utah WIC stamp by the authorized vendor on the food instrument in the space provided for "Pay to the Order Of". The placement of the vendor stamp on the food instrument will validate the food instrument so that the vendor may receive payment for the WIC foods that were purchased. Without the stamp imprint, the food instrument will be invalid, and will be returned to the vendor unpaid.

Issuance and Return

B. Issuance and Return

- 1) The State Agency will issue two (2) stamps to all vendors upon initial authorization without cost.
- 2) When a vendor agreement becomes null and void through closure of a store, change of ownership, or termination of an agreement (by either the vendor or State Agency), the vendor is required to surrender all the stamps issued to the State Office by mail or in person within ten (10) days.
- 3) Additional stamps may be issued to the vendor upon request.

Food Instrument Screening

C. Food Instrument Screening

- 1) The bank will screen all WIC food instruments for the Utah authorized vendor stamp. All WIC food instruments that have not been imprinted with the authorized stamp, handwritten, or imprinted with an unauthorized, lost or stolen stamp will be rejected by the bank and returned to the vendor unpaid.

Vendor Responsibilities

D. Vendor Responsibilities

- 1) Food instrument Validation

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F.13. Vendor Stamp System, Continued

<ul style="list-style-type: none">• The placement of the Utah authorized vendor stamp upon the WIC food instrument will validate the food instrument for cashing by the vendor at the bank	<ul style="list-style-type: none">• Validation of the food instruments is accomplished by the vendor any time prior to depositing the food instrument for payment
<ul style="list-style-type: none">• The WIC food instrument will be considered invalid, and subject to rejection, if no authorized stamp is placed on the food instrument, the vendor number is unreadable, or if an unauthorized, lost, or stolen stamp is used	<ul style="list-style-type: none">• The WIC food instrument will be considered invalid, and subject to rejection, if no authorized stamp is placed on the food instrument, the vendor number is unreadable, or if an unauthorized, lost, or stolen stamp is used
<ul style="list-style-type: none">• Food instruments validated improperly by an unauthorized vendor (including terminated or inactive stores) will be the vendor's liability	

Lost or Stolen Stamp

E. Lost or Stolen Stamp

- 1) The vendor is responsible to contact the State WIC Office within two (2) working days upon discovery of the authorized stamp(s) being lost or stolen.
- 2) If the vendor has acquired any additional stamps with the same identification number, the stamps will need to be surrendered to the State WIC office within ten (10) days.
- 3) The State Agency will issue a new stamp with a different identification number to those vendors who have reported the loss.

Vendor Stamp Violations

F. Vendor Stamp Violations

- 1) Failure to report a lost or stolen stamp is an act of non-compliance and duplication or using an unauthorized, lost, or stolen stamp is a violation of the vendor agreement and can result in sanctions or disqualification.
 - 2) Any vendor who commits fraud or abuse of the program is liable to prosecution under applicable Federal, State or Local laws.
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F.14. Vendor Monitoring

Vendor Monitoring

1. The purpose of **vendor monitoring** is to insure high quality service to participants and to ensure compliance with Federal regulations and the Utah WIC Vendor Agreement. Both the State or local agency will conduct vendor monitoring. This will be determined by the State Agency depending on the location of the vendor and the type of monitoring.

High Risk Vendors

- A. **High Risk Vendors** – A vendor identified as having a high probability of committing a vendor violation through application of the criteria established in §246.12(j)(3) and any additional criteria established by the State agency.
- 1) High-risk vendors will be identified by the State agency quarterly and will be assigned by PRIORITIES I - VII with PRIORITY I being the greatest potential for fraud and abuse through PRIORITY VII having the least potential. High-risk vendors are determined by redemption analysis, vendor monitoring/ follow up, alleged complaints, and/or any other objective means. Violations that are documented without the necessity of further supporting evidence will be assigned sanctioning points for that violation. High-risk vendors are determined to be potentially at risk for WIC Program violations. A high risk vendor will be assigned to one or more PRIORITIES based upon the following criteria:

PRIORITY I	<p>A vendor will be identified as having the highest potential for fraud or abuse based on information obtained from redemption analysis, vendor monitoring, alleged complaints, and/or any other objective means which indicated the following potential problems:</p> <ol style="list-style-type: none">1. Exchanging WIC food instruments for cash, credit or consideration other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances;2. Exchanging WIC food instruments for alcoholic beverages or tobacco products;3. A pattern of:<ul style="list-style-type: none">▪ Claiming reimbursement for the sale of an amount of a specified food item which exceeds the store's documented inventory of that food item for a specific period of time▪ Exchanging cash or credit for WIC food instruments▪ Receiving, transacting and/or redeeming WIC food instruments outside of authorized channels▪ Accepting WIC food instruments from unauthorized persons▪ Exchanging non-food items for a WIC food instrument▪ Charging WIC customers more for food than non-WIC customers or charging WIC customers more than current price shelf price▪ Charging for food items not received by the WIC customer or for foods provided in excess of those listed on the food instruments▪ Any other vendor problem that may indicate potential fraud of the WIC Program
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F.14. Vendor Monitoring, Continued

PRIORITY II	Those vendors with more than TEN (10) food instruments redeemed greater than or equal to 110% of the estimated cost or a total weighted score (of all risk factors) of 530 or greater for any given month.
PRIORITY III	Those vendors with more than FORTY-FIVE (45) food instruments or greater than 10% of the food instruments redeemed between 110%-105% of the estimated cost or a total weighted score (of all risk factors) of 510-529 for any given month.
PRIORITY IV	Those vendors with an increase in the redemption level variance of greater than 100% and redeeming >\$1,000 per month comparing any consecutive monthly dollar redemption analysis, excluding new vendors or pharmacies.
PRIORITY V	Those vendors who receive any other type of complaint not addressed in PRIORITY I (not involving fraud or Civil Rights) or vendor assigned eight (8) or more sanctioning points
PRIORITY VI	Those vendors with an average of greater than \$55,000 in WIC business per month

Monitoring High Risk Vendors

2) Monitoring of High-Risk Vendors

- a) All High Risk vendors identified by the State Agency will be monitored within forty-five (45) days from the notification letter utilizing the following vendor monitoring forms: **Vendor Stocking Requirement Verification Form, Vendor Monitoring Instrument, and the Food Price Reporting List**. All forms are to be submitted to the State Agency upon completion. The Local Agency will retain a copy of all forms submitted to the State Agency in the vendor file.
- b) Local Agencies will be informed monthly which of the High Risk Vendors identified by the State Agency the local agency needs to visit. The reason the vendor was identified as high-risk and PRIORITY will be included on the list.

Representative Vendor Monitoring

B. Representative Sample

- 1) The State Agency shall select at least 5% of all authorized WIC Vendors to be monitored per year based on a representative sample.

Continued on the next page

F.14. Vendor Monitoring, Continued

2) Monitoring Representative Sample Vendors

- a. The local agencies will be informed at the beginning of each Fiscal Year of the representative sample vendors selected for their area that they will need to monitor during that year. Monitoring forms for this type of visit may include the following: the **Vendor Monitoring Instrument**, **Vendor Stocking Requirement Verification Form**, and the **Food Price Reporting List**. The Local Agency shall submit these identified forms to the State Agency, retaining a copy of the monitoring instrument in the vendor file.
- b. If any of the vendors on the Representative Sample leaves the WIC Program or are disqualified and they have not been monitored during that fiscal year, that vendor must be replaced with another vendor. Please contact the State Agency if this occurs.

Vendor Follow-up and Training

C. Vendor Monitoring Follow-up/Training Procedures

- 1) When a vendor problem has been identified as needing follow-up or specified training, the local agency will utilize a **Local Agency Vendor Monitoring Follow-up form** and/or the **WIC Training Report**. This will verify that the vendor has been adequately trained and/or corrected any problems. These forms shall be submitted to the State Agency within thirty (30) days. A copy is retained for the local agency vendor file.
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F.15 Conduct & Documentation for Monitoring Visits

Representative Sample Monitoring

1. Representative Sample Monitoring

- A. Assure the vendor there are not any specific problems, they have been randomly selected out of all the vendors in the State to be monitored. The **Vendor Monitoring Instrument**, **Vendor Stocking Requirement Verification Form**, and the **Food Price Reporting List** are required to be completed.
 - B. The WIC vendor staff member is required, unless previously accomplished or directed otherwise by the State agency, to perform the annual and three (3) year on-site interactive training during the vendor representative sample and the high-risk on-site visit
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F.15 Conduct & Documentation for Monitoring Visits (continued)

- C. If any of the vendors on the Representative Sample leaves the WIC Program or are disqualified and they have not been monitored during that fiscal year, that vendor must be replaced with another vendor. Please contact the State Agency if this occurs.

High Risk Monitoring – Priority I

2. High Risk Monitoring

- A. **PRIORITY I - Fraudulent Complaints:** Discuss the specific type of problem involved and ways to resolve present and future problems. Make sure the vendor understands that these type of problems have the highest potential for fraud and abuse. Make sure the vendor understands that sanctioning points can be assessed that could lead to disqualification from the WIC Program and the Food Stamp Program. Review the Utah WIC Vendor Agreement.

High Risk Monitoring – Priorities II & III

- B. **PRIORITIES II - III: High Priced Food instruments or High Total Weighted Score** - Discuss what is meant by “excessive high priced” food instruments (for example: your store has redeemed 10 or more food instruments that were greater than or equal to 10% above the estimated cost or 45 or more food instruments [or >10% of the total food instruments] redeemed greater than 105% of the estimated cost). The total weighted score of multiple risk factors (high/low variance of food instrument prices, food instruments redeemed at the same price or within a narrow range, high average food instrument prices, large percentage of high priced food instruments, large increase in dollar volume over time, large percentage of the area’s total WIC redemptions, large number of WIC clients redeeming food instruments outside of the clinic service area, and high percentage of high risk WIC clients) has placed the vendor in the high risk category compared to all the vendors in the State of Utah. Discuss overall redemption procedures and provide training as appropriate.

- 1) High Priced Food instruments/High Total Weighted Scores can occur many ways, these include:

<ul style="list-style-type: none">● Clinic Errors	<ul style="list-style-type: none">● Allowing the participant to consistently purchase less foods than what is issued. The key is consistently. If the participant requires less food, a different or a prorated package should be issued● Assigning a wrong vendor category number (category 1 vendor number assigned on the Risk Assessment Screen, and the participant went to a category 2 vendor).
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F.15 Conduct & Documentation for Monitoring Visits, Continued

<ul style="list-style-type: none">● Vendor Errors	<ul style="list-style-type: none">● Combining foods from two or more food instruments onto a single WIC food instrument● Allowing extra or substituting a non-eligible food item for an authorized WIC food item● Allowing substitution of inappropriate sizes of WIC food items● Inappropriate food instrument cashing procedures● Forgetting to clear cash register between WIC food instruments or non-WIC foods● Excessive WIC food commodity prices● Adding sales tax to the WIC purchase● Allowing non-food items● Vendor fraud
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- a) When discussing excessive high priced food instruments and high Total Weighted Scores, make sure you cover ALL these possibilities with the vendor. (Be diplomatic when discussing possible vendor fraud). DOCUMENT on the **Vendor Monitoring Instrument** the most likely reasons why this may have occurred. Then document the training given to the vendor specifically addressing the potential problems the vendor may be having that identified them as high-risk.

High Risk Monitoring – Priority IV

- C. **PRIORITY IV: High Increase in Monthly Variance Analysis** - Discuss what is meant by a "high in monthly variance analysis" (e.g.: your store has had a significant increase in monthly redemption from the previous month). Grocery redemption volumes generally remain constant after the initial months of opening a new store. A significant increase may indicated the vendor is attracting WIC customers inappropriately.

High Risk Monitoring – Priorities V & VI

- D. **PRIORITY V: Complaints/Accumulation of Eight (8) or more Sanctioning Points** - Discuss the specific type of complaint/reason why points were assigned and ways to resolve present and future problems - review the Utah WIC Vendor Agreement.
- E. **PRIORITY VI: High-Volume of WIC Business**: reassure the vendor their store has done nothing wrong. They have only been selected because of the large volume of WIC food instruments they redeem per month.

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F.15 Conduct & Documentation for Monitoring Visits, (Continued)

High Risk Monitoring – General Instructions

F. High-Risk Monitoring – General Instructions

- 1) MAKE SURE the vendor understands that if WIC Program violations continue, their store may be identified for compliance purchases that may lead to sanctioning points, suspension/ disqualification. If the vendor is suspended/disqualified from WIC because of fraud or program abuse they could be also suspended/disqualified from the Food Stamp Program as well.
- 2) You must document your discussion of any problems and/or violations discovered during the visit on either the **WIC Vendor Monitoring Instrument** or **WIC Vendor Training Report**. THE IMPORTANCE OF THIS DOCUMENTATION IS CRITICAL TO THE INTEGRITY OF ANY FUTURE COMPLIANCE PURCHASE.
- 3) After discussing any specific problems, go through the **Vendor Monitoring Instrument** with the manager and one additional person. Note any other potential problems.
- 4) If the manager is unavailable, talk with the assistant manager, or head cashier. Also be sure to talk with other cashiers. Ask them if they are having any problems or have any questions.
- 5) Walk through the store, checking on the quantity and variety of WIC foods. Conduct a price survey using the **Food Price Reporting List** and **Vendor Stocking Requirement Verification Form**. If the price of a WIC food commodity is found to be excessive, go back to the manager and discuss the situation at this time.
- 6) Before leaving make sure you have documented all concerns and discussions of any problem areas along with possible violations and follow up if needed.

G. All high risk monitoring visits must be documented.

- 1) The following forms may be identified for high risk monitoring: Vendor Monitoring Instrument, Vendor Stocking Requirement Verification Form, and Food Price Reporting List. Document the required areas of training and those problem areas for which the vendor was identified as high risk on the Vendor Monitoring Instrument.
- 2) After discussion and any required training are completed, obtain the store representative's signature at the bottom of page 3 of the Vendor Monitoring Instrument.

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F.15 Conduct & Documentation for Monitoring Visits, (Continued)

- H. REMEMBER to conduct the required annual training and the three (3) year interactive training during any representative sample and high risk on-site visit UNLESS otherwise directed by the State Agency or these required trainings have been accomplished.
 - I. **All high risk monitoring visits must be documented**
 - 2) The following forms may be identified for high risk monitoring: **Vendor Monitoring Instrument, Vendor Stocking Requirement Verification Form, and Food Price Reporting List**. Document the required areas of training and those problem areas for which the vendor was identified as high risk on the **Vendor Monitoring Instrument**.
 - 2) **After discussion and any required training are completed, obtain the store representative's signature at the bottom of page 3 of the *Vendor Monitoring Instrument*.**
 - J. **REMEMBER** to conduct the required annual training and the three (3) year interactive training during any representative sample and high risk on-site visit UNLESS otherwise directed by the State Agency or these required trainings have been accomplished.
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F.16. Vendor Education/Training & Guidance

Vendor Education – Training & Guidance

1. Vendor Education/Training & Guidance

- A. Education/training is provided to vendors through on-site visits by either the State or local WIC vendor relations staff person. Who will conduct the training at a particular vendor is determined both the State agency based on the location of the vendor and availability of time of WIC personnel.
- B. When training is delegated to the local agencies, the State Office will be responsible for providing training to the local agencies on effective vendor education methods. This will ensure uniform vendor education procedures are conducted Statewide. Vendor education and training is designed to prevent program errors and abuse and to improve program service.
- C. Required Vendor Education is to be conducted for the following reasons:

● Required Annual Training	● Required interactive training every three (3) years.
● Vendor requests training	● Vendor is newly authorized (initial training)
● Vendor is a Representative Sample or identified as High Risk (in these cases the Local Agency/State Agency conducts both vendor monitoring and vendor training).	● Vendor has accumulated eight (8) or more sanction points for any reason.
● Required training as directed by the State Agency	● Any non-compliance with the Utah WIC Vendor Agreement

- D. Required training and monitoring may both be accomplished in the same visit.
- E. IT IS REQUIRED THAT IF THE VENDOR IS BEING SEEN FOR ANY ON-SITE VISIT, THE REQUIRED ANNUAL TRAINING AND/OR THREE (3) YEAR INTERACTIVE TRAINING MUST BE ACCOMPLISHED AT THE SAME VISIT (UNLESS OTHERWISE DIRECTED BY THE STATE AGENCY OR THESE REQUIRED TRAINING(S) HAVE ALREADY BEEN ACCOMPLISHED).**
- F. BOTH THE ANNUAL TRAINING AND THE THREE (3) YEAR INTERACTIVE TRAINING CAN BE ACCOMPLISHED WITH ONE INTERACTIVE TRAINING SESSION**

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F.16. Vendor Education/Training & Guidance, (Continued)

Required Annual Training

2. Required Annual Training

- A. At least one representative of the vendor must participate in training annually. Annual vendor training may be provided by the State or local agency in a variety of formats, including newsletters, videos, and interactive training. The State or local agency will have sole discretion to designate the date, time, and location of all interactive training, except that the State or local agency will provide the vendor with at least one alternative date on which to attend such training.
- B. The annual training must include instruction on:
 - 1) The purpose of the Program;
 - 2) The supplemental foods authorized by the State agency;
 - 3) The minimum varieties and quantities of authorized supplemental foods that must be stocked by the vendors;
 - 4) The procedures for transacting and redeeming food instruments;
 - 5) The vendor sanction system;
 - 6) The vendor complaint process;
 - 7) The claims procedures;
 - 8) Any changes to program requirements since the last training.
- C. The standard training presentation for the Utah WIC Program will be the **WIC Training Module for Cashiers** with completion of the post-test. Post-tests will be collected and sent to the State agency when the training is finished.
- D. Any alternative training from the standard training presentation (**WIC Training Module for Cashiers**) can only be performed during an on-site visit with interactive training.
- E. The Annual Training Requirement must be conducted during any Representative Sample, High-Risk and follow-up on-site visits, unless otherwise directed by the State agency or these required trainings have been accomplished.

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F.16. Vendor Education/Training & Guidance, (Continued)

Required Annual Training

- F. The State and/or local agency must document the content of and vendor participation in vendor training. If the Annual Training is being performed in conjunction with a monitoring visit, document the training on the **WIC Vendor Monitoring Instrument**. If this training is being conducted separately, document the training on the **WIC Training Report**.
- G. If the Annual Training Requirement cannot be completed through on-site visits during that federal fiscal year, then State agency will ensure that the Annual Training Requirement is completed for the remaining Utah WIC authorized vendors.

Required Three (3) Year Interactive Training

- 3. Required Three (3) Year Interactive Training**
- A. This training must be in an interactive format that includes a contemporaneous opportunity for questions and answers. The State or local agency must designate the date, time, and location of the interactive training and the audience (e.g., managers, cashiers, etc.) to which the training is directed. The State or local agency must provide vendors with at least one alternative date on which to attend interactive training.
 - B. Examples of acceptable vendor interactive training include on-site cashier training, off-site classroom-style train-the-trainer or manager training, a training video, and a training newsletter. The standard training presentation for the Utah WIC Program will be the **WIC Vendor video** and the **Training Module for Cashiers** with completion of the post-test. Post-tests will be collected and sent to the State agency when the training is finished.
 - C. All vendor training must be designed to prevent program errors and noncompliance and improve program service.
 - D. The State or local agency must document the content of and vendor participation in vendor training. If the Three (3) Year Interactive Training is being performed in conjunction with a monitoring visit, document the training on the **WIC Vendor Monitoring Instrument**. If this training is being conducted separately, document the training on the **WIC Training Report**.
 - E. The Three (3) Year Interactive Training Requirement must be conducted during any Representative Sample, High-Risk and/or follow-up on-site visit unless otherwise directed by the State agency or these required trainings have been accomplished.

Continued on the next page

F.16. Vendor Education/Training & Guidance, (Continued)

General Training Procedures

4. General Training Procedures

A. Vendor Training is to be conducted by a State or Local WIC staff person, using the **WIC Vendor Training Manual** and documented on the **Vendor Monitoring Instrument** (Representative/High Risk Monitoring), **WIC Training Report**, (Annual/Interactive and other vendor training) or (if applicable) the **Checklist for Vendor Training** (initial vendor training). The training is to be provided to the store manager. Other personnel, such as the head cashier and other personnel, may want to attend if it is a large store. It is important to offer to train the rest of the store personnel before you begin the training. If other personnel are not planning to attend, you must stress to the manager his/her responsibility to train other store personnel in accordance with the Utah Vendor Agreement.

- 1) The State/local agency vendor representative should set up an appointment with the storeowner or manager [the Dairy Vendor may come to the local agency (clinic) for vendor training].
- 2) The vendor representative visits the store, taking the **Checklist for Initial Vendor Training Form** (*initial training only*), or **WIC Vendor Training Report** (*training visit only*) or **Vendor Monitoring Instrument** (*monitoring visits*) and the **WIC Vendor Training Manual**. Try to have the training take place in a quiet area where there will be few interruptions.
- 3) The following items should then be reviewed and discussed as appropriate to the problems identified or requested to be covered. **(Remember, all items must be covered on initial evaluation training sessions):**

Review Vendor Authorization / Qualifications

- a) **Review Vendor Authorization/Qualifications** - (required for all new vendors or those with difficulties in renewal of their agreements)

● Overview of selection criteria	● Notification of qualifications/ disqualifications
● Further details - back of Vendor Agreement	

Continued on the next page

F.16. Vendor Education/Training & Guidance, Continued

Review WIC Food Stock and Inventory Requirements

- b) **Review WIC Food Stock and Inventory Requirements** (required for all new vendors or those with complaints/sanctioning points regarding non-stock of WIC food items)

● List food items required by category of vendor	● List sizes and quantities of each food item required
● Further details - back of WIC Vendor Agreement or WIC Vendor Training Manual	

Review Authorized WIC Foods

- c) **Review Authorized WIC Foods** - (required for all new vendors or those with complaints/sanctions regarding unauthorized foods)

● Authorized Food List	● Further details - WIC Vendor Training Manual
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Review WIC Cashing Procedure at Time of Purchase

- d) **Review WIC Cashing Procedure at Time of Purchase** - (required for new vendors or those with high priced food instruments, excessive food instrument errors, complaints/sanctions regarding food instrument cashing procedures)

● Cashier's procedures	● Further details - WIC Vendor Training Manual
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Review Proper Method of Redemption

- e) **Review Proper Method of Redemption** - (required for new vendors or those with food instrument errors/vendor **and redemption date stamp**, problems with NOT TO EXCEED limits, redemption prior to and beyond the thirty (30) day limit from the First Day To Use, Stale Date (beyond 60 days from the Last Day To Use), and any other related redemption errors)

● Vendor Stamp procedure	● First Day to use / Last day to use
● NOT TO EXCEED limit	● Replacement food instrument procedures from the State Agency
● Further details - WIC Vendor Training Manual	

Continued on the next page

F.16. Vendor Education/Training & Guidance, Continued

Review Utah WIC Vendor Agreement

- f) **Review Utah WIC Vendor Agreement** - (required for new vendors, those having difficulty meeting renewal qualifications, and those with complaints/sanctions regarding specific sections of the Vendor Agreement)

• Vendor Agreement and Application to participate in the Utah WIC Program	• Vendor and State Agency Responsibilities
• Store Category and stocking requirements	• Vendor Limiting and Selection Criteria
• Vendor Sanctions: WIC Disqualification based on an FSP Disqualification & FSP Disqualification based on certain WIC mandatory sanctions.	• Expiration of the Vendor Agreement and Renewal Procedure
• Further details - Utah WIC Vendor Agreement	

Review Current State Agency Memos since last Agreement Revision

- g) **Review Current State Agency Memos since last Agreement Revision** - (required for all new vendors or those who may not have been informed by a general mailing)

• New policy memos or clarifications	• Further details - included with Vendor Training Manual or from the State WIC Agency
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Review of Vendor High Risk Tracking System and Collection of Apparent Overcharges

- h) **Review of Vendor High Risk Tracking System and Collection of Apparent Overcharges** - (required for new vendors and those that need to understand the high risk selection or monitoring process, those vendors who have received sanctioning points because of failure to reimburse the State Agency for an overcharge)

• High risk vendor selection criteria	• Monitoring of high risk vendors
• Compliance buys	• Determination of vendor overcharges and reimbursement
• Further details - Vendor Training Manual	

Continued on the next page

F.16. Vendor Education/Training & Guidance, Continued

Review How to Report Abusive Participants

- i) **Review How to Report Abusive Participants** - (required for new vendors and those vendors who need to understand the reporting procedures of an abusive WIC participant)

• WIC Participant Abuse (definitions)	• Reporting WIC Participant Abuse
• Resolution of the complaint/incident	• When to report a complaint or abuse
• Business Reply cards to report a suspected abuse	• Further details - WIC Vendor Training Manual

Review Frequently Asked Questions

- j) **Review Frequently Asked Questions** - (required for new vendors and those who need to review these procedures)

• Changes in the Utah WIC Authorized Food List Card	• Low or non-stock of a WIC food item
• Above the NOT TO EXCEED limit	• WIC food instrument returned by the bank
• Special Sale items	• Further details - WIC Vendor Training Manual

Review How to Obtain Assistance

- k) **Review How to Obtain Assistance** - (required for new vendors and those vendors who need to understand how to contact the Local or State Agency vendor person)

• Appropriate local agency vendor management personnel and phone number	• State Agency toll-free number
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Review Compliance Buys

- l) **Review Compliance Buys** - (required for new vendors and those identified as high risk: especially PRIORITY I - V)

• Definition of a compliance buy	• Selection of vendors for compliance buys
• Overview of procedures during a compliance buy	• Further details - Vendor Training Manual

Continued on the next page

F.16. Vendor Education/Training & Guidance, Continued

Review How to Obtain Assistance and Answer any Additional Questions

- m) **Review How to Obtain Assistance and Answer any Additional Questions** - (required for new vendors, high risk vendors and encouraged to review during any training opportunities)

• Name and phone number of local agency vendor staff person	• State Vendor Management Coordinator
• Name and phone number (toll-free) of State Agency Vendor Management Coordinator	• Answer any additional questions

Review Vendor Complaint Process

- n) **Review Vendor Complaint Process** - (required for new vendors and those who need to understand the Fair Hearing Process)

• Fair Hearing Fact Sheet	• Further details - Vendor Training Manual
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Complete all Appropriate Documentation for Visit

- o) Complete all Appropriate Documentation for Visit
- i. The following forms are required for all new vendors receiving initial evaluations with signatures by the vendor and the Local Agency/State Agency representative:

• Checklist for Initial Vendor Training	• Food Price Reporting List
• Vendor Stocking Requirement Verification Form	• Initial Evaluation Form

- p) Show and give the individual(s) you are training the hand size brochures (Utah WIC Food Retailer Guide) which are intended to be placed somewhere near the checkout stand. Have the store post the "This Store Accepts WIC Food instruments" poster
- q) Explain that the Vendor Training Manual is for them to keep on file for future referral. There will be yearly updates to this manual in October of each year or as needed.
- r) Ask if there are any questions and thank the vendor for their time.

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F.17. Compliance/Educational Purchase System and Inventory Audits

Compliance Purchases

1. Compliance Purchase System

- A. The Utah State Agency's compliance purchase system is designed for covert verification and documentation of WIC Program abuses committed by authorized WIC vendors in order that appropriate sanctioning points may be imposed. A compliance purchase is defined as two negative or three positive purchases with WIC food instruments using an investigative individual posing as a WIC participant in order to verify and document WIC Program abuse or fraud. The investigative agent (posing as a WIC participant) will attempt to obtain evidence that the vendor will allow a WIC Program violation or fraud to be committed at that specific vendor location. Vendors selected for investigation will be based on high risk PRIORITIES I - VII (redemption analysis findings, monitoring, complaints, etc.) or at random.
- B. The WIC State office shall decide based on the type of violation, statistical and financial significance of the violation and criteria for investigations whether any type of purchase investigation will be performed prior to authorizing such investigations, and whether an educational purchase (similar to a compliance purchase, but with the vendors/store managers prior knowledge) may precede compliance purchasing.
- C. Compliance Purchase Selection
 - 1) The Utah WIC Program will conduct compliance purchases on a minimum of five percent (5%) of the total WIC vendors authorized at the beginning of the Federal Fiscal Year.
 - 2) Vendors will be selected for compliance buys based on their high risk PRIORITY assigned. Vendors identified in PRIORITY I will receive compliance buys first, followed by PRIORITIES II - VI.
 - 3) If the minimum 5% is obtained within PRIORITY I, those vendors identified with alleged high risk violations in two or more months within a fiscal year will be selected first. If the minimum 5% is obtained in PRIORITIES II-IV, those vendors with the highest dollar value in high priced food instruments and/or the highest monthly variance in redemption per month will be selected first. If the minimum 5% is obtained in PRIORITIES V - VI, those vendors identified with alleged problems for that specific PRIORITY in two or more months within a fiscal year will be selected first.

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F.17. Compliance/Educational Purchase System and Inventory Audits (continued)

- 4) Vendors may also be selected at random if the minimum 5% is not met by identification of high risk vendors.
- D. All food items obtained during compliance purchases will be photographed by the investigative agency and then donated to a non-profit agency with an acknowledgment receipt.
- E. At the completion of each compliance purchase, the investigative agency will complete the **Report of Utah WIC Investigation**, [five (5) attachments]. These forms will document date, description of cashier, types and quantities of items, current prices and price actually charged for each item.

Educational Purchases

2. Educational Purchase System

- A. The Utah State Agency's educational purchase system is designed for the determination of WIC Program abuse committed by authorized WIC vendors in order that appropriate training can be conducted to correct the discrepancies found. A educational purchase is defined as one or more purchases with WIC food instruments using an individual posing as a WIC participant in order to determine any WIC Program abuse. The investigative agent (posing as a WIC participant) will attempt to obtain evidence that the vendor will allow a WIC Program violation committed at that specific vendor location. Vendors are selected for educational purchases investigation based on requests by store managers or directors who wish to verify compliance of WIC redemption procedures or recommendations by the State or local WIC agency to a specific vendor for training purposes.
- B. Unlike the compliance purchase system, the vendor is informed that the purchase will take place in their store and may have requested the educational purchase for training purposes.
- C. A State or local agency vendor representative will be present in the store or in the parking lot (if the representative feels their presence will distract from the purchase) while the educational purchase is being conducted. Immediately after the purchase is completed the vendor representative will discuss the results with the investigator. The vendor representative will contact the store manager or director, discuss the results, and provide training as appropriate. This training will be documented on the **WIC Vendor Training Report** form. Details of the purchase will be forwarded to the State agency with the investigator completing the same forms as with a compliance purchase.
- D. The State agency will require training in any of the discrepancy areas found if not already accomplished after the educational purchase. The vendor has thirty (30) days in which to schedule this training after being notified by the State WIC agency.

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F.17. Compliance/Educational Purchase System and Inventory Audits (continued)

Inventory Audits

3. Inventory Audits

- A. Inventory audits can be used when undetected access to the vendor is not likely or compliance purchases are otherwise not feasible to determine alleged fraud or abuse of the WIC Program.
- B. An inventory audit is a comparison of the quantity of WIC food items from the beginning of a month with the quantity of WIC food items at the end of the month, minus sales receipts to non-WIC customers and redeemed WIC food instruments during that same period. If the comparison demonstrates that a vendor's redemptions exceeded the amount of WIC food items available for sale, the vendor may have overcharged the WIC program.
- C. Procedures for conducting an inventory audit
 - 1) Two (2) vendor representatives, of whom one will be from the State agency, must conduct the store audit. When visiting the store, the investigators will advise store management that they are conducting a monitoring visit that will include counting stock as part of the on-site visit.
 - 2) The investigators will do a count of each WIC item except peanut butter, peas and beans. The other investigator will verify the count. Both investigators must agree on the count. Once the count is agreed upon, then it is documented.
 - 3) Ask the vendor if any WIC food instruments have not yet been deposited. Record any food instrument numbers not yet deposited by the vendor. If the food instruments are at another location, have the vendor call the State agency with the numbers. These food instruments will be excluded from the audit.
 - 4) Document a **Food Price Reporting List** and complete the standard **Vendor Monitoring Instrument** and required training. It is recommended that one investigator complete the monitoring while the other complete the store audit.
 - 5) Before leaving the vendor, review the forms with the manager/director, have them sign, and date the forms. Make sure that the vendor's entire WIC inventory has been seen, counted, and properly recorded. Check with the stores manager/director to ensure that the store's entire WIC inventory has been counted. Vendors often keep WIC items in stockrooms or other locations with the confines of the store. Ensure that the vendor is given proper credit for their entire inventory.

Continued on next page

F.17. Compliance/Educational Purchase System and Inventory Audits (continued)

- 6) If any discrepancies were noted on the store monitoring instrument form, go over them with the store manager/director. Advise the store owner or director that any discrepancies noted must be corrected as discussed.
- 7) Revisit the store at the end of the inventory audit period. Again, use the **Vendor Monitoring Instrument** and **Food Price Reporting List**. As with the first visit, two (2) investigators conduct the monitoring form and inventory audit. Count the same WIC inventory as before. The investigator completing the monitoring instrument will obtain copies of the vendor's receipts, invoices, and bank deposits for those food items over the period of time designated for the audit. If the records are not available, the manager or director will be asked to send them to the State agency within ten (10) working days. Failure to provide these documents will be considered a violation of the Vendor Agreement.
- 8) All food instruments redeemed during that period of time will be reviewed by the State agency. The State agency will provide the following calculations:

Beginning inventory + Vendor's invoices = Total available for sale
Total available for sale – Ending inventory = Total sold

Compare total sold of each item to those totals obtained from redeemed food instruments and sales receipts. If the total exceeds the total sold by the vendor then multiply the exceeded amount by the lowest retail price obtained during the visits to determine the overcharge amount.

F.18. Vendor Abuse & Sanctions

Vendor Abuse & Sanctions Procedures

1. Vendor Abuse and Sanctions Procedures

- A. The State Agency shall determine the type and level of sanctions to be applied against food vendors based upon the severity, nature and *pattern* of the Program violations observed, and such other factors as appropriate (for example: whether the offenses represented vendor policy or whether they represent the actions of an individual employee who did not understand the Program Rules.

Definitions

Definitions:

Vendor violation – Any intentional or unintentional action of a vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the vendor agreement or Federal or State statutes, regulations, policies, or procedures governing the Program.

Investigation – a method used by the State Agency to determine if violations are occurring.

Violation – an infraction of program regulations, policies or agreements.

Sanction – an administrative action taken as a result of a violation.

Pattern – based on the number and severity of the incidences of the violation

Prior warning of vendors

- B. The State Agency does not have to provide the vendor with prior warning that violations were occurring before imposing any of the sanctions described.

Pattern of violations

- C. Establishing a pattern of violations. Those violations identified as requiring a pattern are assigned sanctions based upon at least three (3) independent documented repeated violations during any compliance investigation or during any thirty (30) day period. When conducting inventory audits, a pattern can be established during a single review of the vendor's redemption records and depends on the magnitude of shortfalls and the period of time over which they occur. A pattern of violations does not need to be present when applying a permanent disqualification as outlined.

Multiple violations

- D. When more than one violation is detected during a single investigation, the disqualification period will be based on the most serious violation.

Voluntary withdrawal

- E. The State Agency may not accept voluntary withdrawal of a vendor from the WIC Program as an alternative to disqualification.

Mandatory Disqualifications

2. Mandatory disqualification periods are assigned for the following WIC violations in accordance with 7 CFR §246.12:

Continued on the next page

F.18. Vendor Abuse & Sanctions (continued)

Permanent Disqualification

A. Permanent Disqualification from the WIC Program

- 1) A vendor convicted of trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21U.S.C. 802)) in exchange for food instruments
- 2) Permanent Disqualification from Food Stamps

Six Year Disqualification

B. Six (6) Year Disqualification from the WIC Program

- 1) One incidence of buying or selling food instruments for cash (trafficking);
or
- 3) One incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food instruments.

Three (3) Year Disqualification

C. Three (3) Year Disqualification from the WIC Program

- 1) One incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for food instruments;
- 2) A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time;
- 3) A pattern of vendor overcharges;
- 4) A pattern of receiving, transacting and/or redeeming food instruments outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;
- 5) A pattern of charging for supplemental food not received by the participant; or
- 6) A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food instruments.

One (1) Year Disqualification

D. One (1) Year Disqualification from the WIC Program

- 1) A pattern of providing unauthorized food items in exchange for food instruments, including charging for supplemental foods provided in excess of those listed on the food instrument.

Continued on the next page

F.18. Vendor Abuse & Sanctions (continued)

Second Mandatory Sanction

F. Second Mandatory Sanction

- 1) When a vendor, who previously has been assessed a sanction for any of the mandatory sanctions listed above, receives another sanction for any of these violations, the State agency must double the second sanction. Civil money penalties may only be doubled up to the limits allowed as defined by this agreement

Third or Subsequent Mandatory Sanction

G. Third or Subsequent Mandatory Sanction.

- 1) When a vendor, who previously has been assessed two or more sanctions for any of the mandatory sanctions listed above, receives another sanction for any of these violations, the State agency must double the third sanction and all subsequent sanctions. The State agency may not impose civil money penalties in lieu of disqualification for third or subsequent mandatory sanctions.

Disqualification from the WIC Program based on a Food Stamp Disqualification

H. Disqualification from the WIC Program Based on a Food Stamp Program Disqualification.

- 1) The State agency will disqualify a vendor who has been disqualified from the Food Stamp Program. The disqualification will be for the same length of time as the Food Stamp Program disqualification. The WIC disqualification may begin at a later date than the Food Stamp Program disqualification, and is not subject to administrative or judicial review under the WIC Program.

Civil Money Penalties in lieu of Disqualification

I. Civil Money Penalties in Lieu of Disqualification

The State agency may impose a civil money penalty in lieu of a permanent disqualification when it determines, in its sole discretion and documents that

- 1) Such action would result in inadequate participant access;
- 2) The vendor had, at the time of the violation, an effective policy and training program in effect to prevent trafficking; and the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation. Any documented policies must have been dated in written form and the training documented prior to the violation;

Continued on the next page

F.18. Vendor Abuse & Sanctions (continued)

Civil Money Penalties in lieu of Disqualification

The State agency may impose a civil money penalty in lieu of a six (6) to one (1) year mandatory disqualification when it determines, in its sole discretion and documents that

- 1) Such action would result in inadequate participant access

If the State Agency permits a vendor to continue to participate in the Program in lieu of permanent disqualification, the State Agency shall assess the vendor a civil money penalty in an amount determined by the State Agency and in accordance with the following criteria:

- 1) the amount of civil penalty shall not exceed \$10,000 for each violation;
- 2) the amount of civil penalties imposed for violations investigated as part of a single investigation may not exceed \$40,000
- 3) If more than one violation is detected during a single investigation, a civil money penalty must be imposed for each violation (up to the \$10,000/\$40,000 limits)
- 4) If a vendor does not pay, only partially pays, or fails to timely pay (includes failure to pay with an installment plan) a civil money penalty within thirty (30) days of receipt of a notification letter, the State Agency will disqualify the vendor for the length of the disqualification corresponding to the violation for which the civil money penalty was assessed.

Calculation of Civil Money Penalties

Formula for calculation of civil money penalties: multiply average redemptions by 10%; multiply result by the number of months for which the vendor would be disqualified. Civil money penalties in lieu of permanent disqualification are for \$10,000 per violation.

The State Agency may allow an installment plan to be utilized for the payment of civil money penalties provided that the installment plan is in compliance with Federal and State laws concerning the collection of interest on such debts.

Other Violations and Points for Violations

J. Other Violations and Points for Violations

- 1) Sanctioning points can be assigned for each single occurrence of that violation which is documented during any redemption analysis, monitoring visit(s), other formal visit(s) or follow-up of previous problems, inventory audits, or any other objective means.

Continued on the next page

F.18. Vendor Abuse & Sanctions (continued)

Other Violations and Points for Violations

- 2) All points are cumulative and will be kept current for a period of two (2) years as long as the vendor is authorized on the Program. Points accrued for each violation will be erased two (2) years after the date of the violation regardless of a renewal of a vendor agreement.
- 3) Food vendors may be subject to sanction points in addition to claims for improper or overcharged food instruments.
- 4) The following violations are assigned specific sanction points. Sanctions are commensurate with the number of points accumulated for one or more of these violations in any combination:

Any combined total of:

- 8 - 14 points** = Initial or follow-up warning letter with required training.
15 points = 3 month disqualification
16 - 17 points = 6 month disqualification
18 - 19 points = 9 month disqualification
20 or > points = 1 year disqualification

Failure to attend or complete mandatory training sessions as outlined in the WIC Vendor Agreement after one mutual opportunity to reschedule 15

Failure to provide inventory records during monitoring visits or when requested to do so by the State Agency..... 15

Failure to maintain adequate supply of WIC foods in accordance to the category of Vendor identified during three compliance purchases or after being given one opportunity to correct the inadequacy per finding during monitoring or any store visits.
..... 8

Discrimination against a WIC participant..... 8

Knowingly providing cash, credit, non-food, or substitution of any authorized WIC food items in lieu or exchange of WIC food items returned to the store purchased with WIC food instruments 8

Offering or giving "rain checks" for WIC foods 8

Continued on the next page

F.18. Vendor Abuse & Sanctions (continued)

Other Violations and Points for Violations	Failure to reimburse/refund the State Agency for requested claims for overcharge thirty (30) days after receiving a certified letter.....	8
	Failure to provide training to all employees who handle WIC transactions or failure to allow monitoring or training of the vendor by WIC representatives or failure to provide food instruments for review when requested during monitoring of the vendor	8
	The price of any WIC eligible food item has exceeded five percent (5%) above the average price of the same WIC eligible food item in other WIC authorized vendors in the same category or client service area after a thirty (30) day notification of the discrepancy by certified mail	8
	Requiring cash to be paid in whole or part to redeem food instruments	8
	Knowingly entering false information or altering information on the WIC food instrument	5
	A pattern of substituting one eligible food item of the same type for a different size of a different eligible WIC food item of the same type	5
	Failure to provide pricing records during monitoring visits or when requested to do so by the State Agency	5
	A pattern of charging sales tax on WIC food items	5
	A pattern of substituting one eligible WIC food item of the same type & size for a different eligible WIC food item of the same type	5
	Discourteous treatment of a WIC participant.....	5
	A pattern of failure to record the purchase price on the food instrument	3
	Contacting WIC participants to correct discrepancies as a result of non-payment or in an attempt to recover funds for food instruments not paid by the State Agency or those food instruments where refunds were requested for overcharge	3
	Decreasing the amount of food purchased by the WIC client in order to lower the total price of the food instrument below the Not to Exceed Limit	3
	Duplication or using an unauthorized, lost, or stolen stamp	2

Continued on the next page

F.18. Vendor Abuse & Sanctions (continued)

Other Violations and Points for Violations	Failure to report a lost or stolen stamp within two (2) working days	2
	Prices not clearly marked on food item or shelf.....	2
	A pattern of substituting one eligible WIC food item of the same type & brand for a different size of the same eligible WIC food item of the same type & brand than what is specified on the food instrument	2
	Acceptance of WIC food instruments with counter-signatures (missing or do not match), stale date, alteration of price or date, failure to place the authorized vendor stamp on the front prior to deposit, redemption prior to the "First Day to Use" or redemption greater than the "Last Day to Use", in any combination per month, greater than 1% of the total WIC food instruments redeemed by that vendor based on the previous month's redemption.....	2
	Acceptance of a WIC food instrument for an amount not in accordance with the vendor agreement (1 point per month for any food instruments redeemed during that month)	1
	Failure to accept a certified letter from the State WIC Agency after two attempts at delivery.....	1
	Obtaining the participant's countersignature on the WIC food instrument before the purchase price was entered by the vendor.....	1
	Requesting a WIC participant to produce any additional forms of ID other than the WIC ID card when redeeming WIC food instruments	1
	Stocking or selling out of date WIC food commodities to WIC participants. This will include any WIC product that has a specific expiration date, sell by, best if sold by or similar wording with a date printed on the container..	1
	K. The vendor will be notified in writing regarding any points assessed and the type of violation(s) found.	
	L. All vendors with 8-14 points will be required to receive training by the State or Local Agency on the violation(s) in question within thirty (30) days of the notice of awarding the sanctioning points. This training will be documented and sent to the State WIC Office.	

Continued on the next page

F.18. Vendor Abuse & Sanctions (continued)

FNS notification of specific vendor violations

- L. The Utah WIC Program shall provide the appropriate FNS (Food and Nutrition Service) Food Stamp Program office with a copy of the notice of administrative action and information on vendors it has either imposed a civil money penalty in lieu of disqualification or disqualified from the WIC Program based in whole or in part of any act which constitutes a violation of that program's regulation and which is shown to constitute a misdemeanor or felony violation of law, or for any of the following specific program violations:
- 1) A pattern of claiming reimbursement for the sale of an amount of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time
 - 2) Exchanging cash, credit or consideration other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances, as defined in section 802 of title 21 of the United States Code, for food instruments;
 - 3) A pattern of receiving, transacting and/or redeeming WIC food instruments outside of authorized channels
 - 4) A pattern of exchanging non-food items for a WIC food instruments
 - 5) A pattern of charging WIC customers more for food than non-WIC customers or charging WIC customers more than current shelf price
 - 6) A pattern of charging for food items not received by the WIC customer or for foods provided in excess of those listed on the food instruments

Disqualification of a vendor and creating an undue participant hardship

- M. Prior to disqualifying a food vendor, the State Agency will consider whether the disqualification would create undue hardships for WIC participants. An undue hardship will be defined as any vendor serving greater than thirty percent (>30%) of the WIC population for that participant zip code location or if there is no other WIC authorized vendor within ten (10) miles. In deciding whether or not to postpone adverse action until a hearing decision is rendered, the State Agency may consider any other relevant criteria in addition to the above.

Termination of a Utah WIC Vendor Agreement

- N. The State Agency will terminate this agreement on not less than thirty (30) days written notice due to: changes in the present agreement which would require all authorized vendors to complete a new agreement; failure of the vendor to fulfill in a timely and satisfactory manner, its obligations under this agreement; unavailability or decrease in federal or state funding; participant caseload management to effectively manage funding; a change in the Federal Regulations or recommended change which results in the necessity to decrease the number of vendors to maintain a cost-effective Program or alters the way vendors are selected, qualified, accumulation of sanctioning points, disqualification; and fraud or abuse of the WIC Program as described in the Agreement.

Continued on next page

F.18. Vendor Abuse & Sanctions (continued)

Referral to Law Enforcement Authorities

- O. **Referral to law enforcement authorities.** When appropriate, the State must refer vendors who violate program requirements to Federal, State, or local authorities for prosecution under applicable statutes.

F.19. Food Delivery for the Homeless

Food Delivery for the Homeless

1. Where the storage of perishable foods is not a problem for the participant, the standard food package and food instruments will be utilized.
 2. Where the storage of perishable foods are difficult or non-existent, a separate specified homeless food package or exchange items will be issued instead of the standard food package.
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F. 20. Administrative Review of State Agency Actions

Adverse actions subject to full administrative reviews.

1. **Except as provided elsewhere in this section, the State agency must provide full administrative reviews to vendors that appeal the following adverse actions:**
 - A. denial of authorization based on the vendor selection criteria for competitive price or for minimum variety and quantity of authorized supplemental foods (§246.12(g)(3)(i) and (g)(3)(ii)) or on a determination that the vendor is attempting to circumvent a sanction (§ 246.12(g)(4));
 - B. termination of an agreement for cause;
 - C. disqualification; and
 - D. imposition of a fine or a civil money penalty in lieu of disqualification.

Adverse actions subject to abbreviated administrative reviews

2. **Adverse actions subject to abbreviated administrative reviews .** The State agency must provide abbreviated administrative reviews to vendors that appeal the following adverse actions, unless the State agency decides to provide full administrative reviews for any of these types of adverse actions:
 - A. denial of authorization based on the vendor selection criteria for business integrity or for a current Food Stamp Program disqualification or civil money penalty for hardship (§ 246.12(g)(3)(iii) and (g)(3)(iv));
 - B. denial of authorization based on a State agency-established vendor selection criterion if the basis of the denial is a WIC vendor sanction or a Food Stamp Program withdrawal of authorization or disqualification;
 - C. denial of authorization based on the State agency's vendor limiting criteria (§ 246.12 (g) (2));
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Continued on the next page

F. 20. Administrative Review of State Agency Actions (Continued)

- D. denial of authorization because a vendor submitted its application outside the timeframes during which applications are being accepted and processed as established by the State agency under § 246.12(g)(7);
- E. termination of an agreement because of a change in ownership or location or cessation of operations 246.12(h)(3)(xvii);
- F. disqualification based on a trafficking conviction (§ 246.12(l)(1)(i));
- G. disqualification based on the imposition of a Food Stamp Program civil money penalty for hardship 246.12(l)(2)(ii); and
- H. disqualification or a civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State agency (§ 246.12(l)(2)(iii)).

Adverse actions not subject to administrative reviews

- 3. **Actions not subject to administrative reviews.** The State agency may not provide administrative reviews pursuant to this section to vendors that appeal the following actions:
 - A. the validity or appropriateness of the State agency's vendor limiting or selection criteria (§ 246.12(g)(2) and (g)(3));
 - B. the validity or appropriateness of the State agency's participant access criteria and the State agency's participant access determinations;
 - C. The State agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation (§ 246.12(t)(1)(i)(B));
 - D. denial of authorization if the State agency's vendor authorization is subject to the procurement procedures applicable to the State agency;
 - E. the expiration of a vendor's agreement;
 - F. disputes regarding food instrument payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error, as permitted by § 246.12(k)(3); and
 - G. disqualification of a vendor as a result of disqualification from the Food Stamp Program (§ 246.12(l)(1)(vii)).

Continued on the next page

F. 20. Administrative Review of State Agency Actions (Continued)

Effective date of adverse actions against vendors

4. **Effective date of adverse actions against vendors** . The State agency must make denials of authorization and disqualifications imposed under § 246.12(l)(1)(i) effective on the date of receipt of the notice of adverse action. The State agency must make all other adverse actions effective 30 days after the date of the notice of the adverse action or, in the case of an adverse action that is subject to administrative review, no later than the date the vendor receives the review decision.

Full administrative review procedures

5. **Full administrative review procedures** The State agency must develop procedures for a full administrative review of the adverse actions listed in this section. At a minimum, these procedures must provide the vendor with the following:
 - A. Written notification of the adverse action, the procedures to follow to obtain a full administrative review and the cause(s) for and the effective date of the action. When a vendor is disqualified due in whole or in part to violations in §246.12(t)(1), such notification must include the following statement: "This disqualification from may result in disqualification as a retailer in the Food Stamp Program. Such disqualification is not subject to administrative or judicial review under the Food Stamp Program."
 - B. The opportunity to appeal the adverse action within a time period specified by the State agency in its notification of adverse action.
 - C. Adequate advance notice of the time and place of the administrative review to provide all parties involved sufficient time to prepare for the review.
 - D. The opportunity to present its case and at least one opportunity to reschedule the administrative review date upon specific request. The State agency may set standards an how many review dates can be scheduled, provided that a minimum of two review dates is allowed.
 - E. The opportunity to cross-examine adverse witnesses. When necessary to protect the identity of WIC Program investigators, such examination may be conducted behind a protective screen or other device (also referred to as an "in camera" examination).
 - F. The opportunity to be represented by counsel.
 - G. The opportunity to examine prior to the review the evidence upon which the State agency's action is based.

Continued on the next page

F. 20. Administrative Review of State Agency Actions (Continued)

- H. An impartial decision-maker, whose determination is based solely on whether the State agency has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the evidence presented at the review. The State agency may appoint a reviewing official, such as a chief hearing officer or judicial officer, to review appeal decisions to ensure that they conform to approved policies and procedures.
- I. Written notification of the review decision, including the basis for the decision, within 30 days from the date of receipt of a vendor's request for an administrative review, and within 60 days from the date of receipt of a local agency's request for an administrative review. These timeframes are only administrative requirements for the State agency and do not provide a basis for overturning the State agency's adverse action if a decision is not made within the specified timeframe.

Abbreviated administrative review procedures

- 6. **Abbreviated administrative review procedures.** Except when the State agency decides to provide full administrative reviews for the adverse actions listed in this section, the State agency must develop procedures for an abbreviated administrative review of the adverse actions listed in this section. At a minimum, these procedures must provide the vendor with the following
 - A. Written notification of the adverse action, the procedures to follow to obtain an abbreviated administrative review, the cause(s) for and the effective date of the action, and an opportunity to provide a written response; and
 - B. A decision-maker who is someone other than the person who rendered the initial decision on the action and whose determination is based solely on whether the State agency has correctly applied Federal and State statutes, regulations, policies, and procedures governing the Program, according to the information provided to the vendor concerning the cause(s) for the adverse action and the vendor's response; and
 - C. Written notification of the review decision, including the basis for the decision, within 30 days of the date of receipt of the request for an administrative review. This timeframe is only an administrative requirement for the State agency and does not provide a basis for overturning the State agency's adverse action if a decision is not made within the specified timeframe.

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F. 20. Administrative Review of State Agency Actions (Continued)

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|---|--|
| Continuing Responsibilities | 7. <i>Continuing responsibilities.</i> Appealing an action does not relieve a local agency or a vendor that is permitted to continue program operations while its appeal is in process from the responsibility of continue compliance with the terms of any written agreement with the State agency. |
| Finality and effective date of decisions | 8. <i>Finality and effective date of decisions.</i> The State agency procedures must provide that review decisions rendered under both the full and abbreviated review procedures are the final State agency action. If the adverse action under review has not already taken effect, the State agency must make the action effective on the date of receipt of the review decision by the vendor or the local agency. |
| Judicial review | 9. <i>Judicial review.</i> If the review decision upholds the adverse action against the vendor or local agency, the State agency must inform the vendor or local agency that it may be able to pursue judicial review of the decision. |
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F. 21. Utah WIC Vendor Agreement

ATTACHMENT

VENDOR AGREEMENT & APPLICATION TO PARTICIPATE IN THE UTAH WIC PROGRAM

v.01.10.01-B

VENDOR NAME _____		PHONE _____
VENDOR MAILING ADDRESS _____		FAX PHONE _____
CITY _____		COUNTY _____
STATE _____	ZIP _____	E-MAIL _____
STORE CONTACT PERSON _____		
OWNER/PARENT COMPANY NAME _____		
OWNER/PARENT COMPANY ADDRESS _____		
CITY _____	STATE _____	ZIP _____
PHONE _____	WHOLESALER NAME _____	
WIC IDENTIFICATION STAMP NUMBER _____ FOOD STAMP PROGRAM # _____		

THIS APPLICATION IS FOR
Check one (1) ONLY

- " Grocery
- " Pharmacy
- " Dairy

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Vendor Responsibilities:

- The vendor can only give or deliver WIC foods in exchange for valid Utah WIC food instruments. If no WIC food instrument is presented, no foods can be exchanged.
- The vendor may accept food instruments only from authorized Utah WIC participants, parents or caretakers of infant and child participants, or their proxies.
- The vendor will provide only the approved foods in accordance to the Utah WIC Food List in authorized quantities and sizes specified on the WIC food instrument.
- A WIC food instrument may only be redeemed and authorized for payment for the exact brand (if specified) or food type, size and quantity of the food items printed on the food instrument.
- The vendor may not provide unauthorized food items, non-food items, cash, or credit (including rain checks) in exchange for food instruments. The vendor understands that any substitution of brand, type, size, or quantity may result in an overcharge, and reimbursement from the vendor may be requested.
- The vendor may not provide refunds or permit exchanges for authorized supplemental foods obtained with food instruments, except for exchanges of an identical authorized supplemental food item when the original authorized supplemental food item is defective, spoiled, or has exceeded its "sell by," "best if used by" or other date limiting the sale or use of the food item. An identical authorized supplemental food item means the exact brand and size as the original authorized

supplemental food item obtained and returned by the participant.

- The vendor cannot stock or sell out of date WIC commodities to WIC participants. This will include any WIC product that has a "sell by," "best if used by" or other date limiting the sale or use of the food item.
- The vendor agrees to not knowingly provide cash, credit, unauthorized goods, substitution of other WIC food items or brands of infant formula, services, or other items of value to WIC participants in lieu of or in exchange of the prescribed WIC authorized foods, or foods returned to the store purchased with WIC food instruments.
- The vendor agrees to sell authorized WIC foods to WIC participants at or below the price charged to non-WIC customers, or the vendor must charge the negotiated contract or bid prices, whichever is applicable to the individual vendor.
- The vendor agrees that the maximum payment of any food instrument will not exceed five percent (5%) of the average cost of any specific food item in accordance to the assigned category of vendor or the actual vendor's shelf prices whichever is less. The State Agency cannot pay a vendor at a level that would otherwise make the vendor ineligible for authorization.
- The vendor will stock the minimum amount of WIC eligible food items, appropriate for the vendor category, at all times, with prices plainly marked on the product or shelf listed/designated.
- Accept WIC food instruments from participants within the allowed time limit stated on the food instrument (First Day to Use through the Last Day to

Use) and deposit food instruments for payment within the allowed time limit (ninety (90) days from the "First Day to Use"). WIC food instruments are not valid greater than ninety (90) days from the First Day to Use and cannot be cleared for redemption.

- The vendor agrees to submit all food instruments to the State WIC Agency that are rejected by the bank in which the vendor wishes consideration for payment (validation) within ninety (90) days of the "First Day to Use" date.

- When the vendor submits a food instrument for payment (validation), the State Agency will evaluate the food instrument for all valid redemption criteria. The State Agency may adjust the total purchase price on food instruments submitted by the vendor for payment to ensure compliance with the price limitations applicable to that vendor. The State Agency must validate the food instrument before the bank will consider payment. If the food instrument was rejected because of a missing vendor identification stamp only, the vendor may stamp the front and resubmit the food instrument to the bank without submitting it to the State Agency for payment. No other exceptions are allowed. Submission of food instruments or inquiries of food instruments not received from the State Agency after ninety (90) days cannot be paid or validated and the food instrument is considered void.

- When the State agency determines the vendor has committed a vendor violation or has a food instrument rejected by the bank that affects the payment to the vendor, the State agency may delay payment or establish a claim in the amount of the full purchase price of each food instrument that contained the vendor overcharge or other error. When payment for a food instrument is delayed or a claim is established, the vendor will be given an opportunity to justify or correct a vendor overcharge or other error. If satisfied with the justification or correction, the State agency must provide payment, adjust the total amount or adjust the proposed claim accordingly. The State agency must deny payment or initiate claims collection action within 90 days of either the date of detection of the vendor violation or the completion of the review or investigation giving rise to the claim, whichever is later. The vendor must pay any claim assessed by the State agency. In collecting a claim, the State agency may offset the claim against current and subsequent amounts to be paid to the vendor. In addition to denying payment or assessing a claim, the State agency may sanction the vendor for a pattern of vendor overcharges or other errors in accordance with the State agency's sanction schedule.

- The vendor may not charge participants, parents or caretakers of infant and child participants, or proxies for authorized supplemental foods obtained with food instruments. The vendor may not seek restitution from WIC clients nor contact WIC clients for food instruments not paid by the WIC State Agency, refunds requested due to overcharge, or any other food instrument

discrepancies that have caused the food instrument to be rejected.

- Vendors agree to accept training and instruction on the WIC program for all store personnel handling WIC transactions.

- The vendor is required to complete or attend mandatory training sessions as noted: 1) prior to or at the time of a vendor's initial authorization; 2) At least one representative of the vendor must participate in training annually. Annual training may be provided to the vendor in any of the following formats, newsletters, videos, and/or interactive training. The State agency will have sole discretion to designate the date, time, and location of all interactive training, except that the State agency will provide the vendor with at least one alternative date on which to attend such training. The vendor must inform and train cashiers and other staff on program requirements. 3) At least once every three years from the initial authorization, the training must be an interactive format that includes a contemporaneous opportunity for questions and answers. The State agency must designate the date, time, and location of the interactive training and the audience (e.g., managers, cashiers, etc.) to which the training is directed. The State agency must provide vendors with at least one alternative date on which to attend the interactive training; and 4) any vendor accumulating eight (8) or more sanctioning points. (Training for accumulation of eight (8) or more sanction points will require the attendance of all store level employees who handle WIC transactions.)

- Failure to comply with the required training requirements, failure to attend mandatory training or train-the-trainer sessions, failure to have all required individuals who handle WIC transactions present at the store level training sessions, or failure to complete the required training modules within sixty (60) days, after one initial opportunity to reschedule may result in additional sanctioning points, disqualification and/or non-acceptance of a renewal application to participate.

- The vendor is responsible to inform and train cashiers and other staff on program requirements. The vendor is accountable to ensure all employees who handle WIC transactions are trained on WIC redemption procedures once the initial pre-authorization training visit has been accomplished unless the vendor notifies the State or local agency to provide such training. The vendor is accountable for all actions of its owners, officers, managers, agents, and employees who commit vendor violations.

- The vendor is required to comply with all instructions and memos by the WIC State Agency.

- The vendor must offer program participants, parents or caretakers of infant or child participants, and proxies the same courtesies offered to other customers. This includes all store promotions with the exception of any promotion or discount where sales tax must be collected in accordance with the Utah State Tax Commission. Any vendor who knowingly refuses to

provide a promotion or discount to a WIC customer will be in violation of this agreement.

- Permit State and local agency vendor representatives to conduct on-site monitoring visits to determine compliance with the requirements of the WIC Program. Said visits will include, but are not limited to: 1) discussion of identified problems with the vendor and completion of required documentation for monitoring visits; 2) provide training to managers, cashiers and other personnel [and ensure vendor has current information]; 3) verification that the vendor carries an adequate stock of WIC food items; 4) obtaining current shelf prices of WIC foods in stock; 5) reviewing inventory records in regards to WIC food items being purchased and sold at the store; and 6) giving technical assistance to vendors when needed.

- Provide access to food instruments, which are negotiated the day of a monitoring visit.

- Cooperate with State, local agency staff and/or USDA officials, and appointed investigators to conduct audits, compliance purchases or other investigations.

- Accept all certified mail from the State WIC Agency.

- The vendor must comply with the nondiscrimination provisions of Departmental regulations. (7 CFR Part 246; Parts 15, 15a & 15b)

- The vendor must provide the State agency advance written notification of any change in vendor ownership, store location, or cessation of operations. In such instances, the State agency will terminate the vendor agreement, except that the State agency may permit vendors to move short distances within the same zip code and utilizing the majority of the same employees without termination of the agreement. The decision whether to allow the vendor to continue to be authorized at the new location or terminate the agreement will be at the discretion of the State agency.

- This agreement is null and void upon change of ownership and a new application and agreement must be completed and approved by the State Agency. No portion of this agreement may be assigned.

- The vendor agrees to obtain all Utah WIC authorized vendor stamps (new or replacements) from the State Agency.

- The vendor agrees to surrender all authorized vendor stamps to the State Agency within (10) days of the closure of a store, change of ownership, or termination of an agreement including any additional stamps the vendor may have purchased.

- Accept only those food instruments that are accompanied by WIC I.D. card. The vendor cannot request the WIC participant to produce additional forms of ID, such as a driver's license or credit card.

- Enter the total purchase price of the WIC foods on the food instrument prior to the countersignature by the participant.

- Imprint the food instrument with authorized WIC Vendor Stamp after determining the transaction is valid and prior to depositing the food instrument.

- The vendor must ensure the participant, parent or caretaker of an infant or child participant or proxy countersigns the food instrument in the presence of the cashier. The countersignature must match the existing signature (like a traveler's check) on the line above; in the event that it does not match, the vendor will not accept the food instrument.

- Do not accept a WIC food instrument that has no signature present on the first or top line.

- Display the official WIC Poster in a prominent place.

- Accept no WIC food instrument for more than the "Not to Exceed" limit printed on the food instrument.

- Do not accept a WIC food instrument with a vendor number or total amount already present on the front of the check.

- The vendor agrees to provide the following information upon State Agency request: monthly or quarterly total volume of business, records of WIC foods purchased for a set period of time such as invoices, receipts, and bank deposits, inventory/ shelf price records of WIC food items, and Food Stamp Program sales volume.

- The vendor must maintain inventory records used for Federal tax purposes and other records the State agency may require for the period of time specified by the State agency in this agreement.

- Upon request, the vendor must make available to representatives of the State agency, the Department and the Comptroller General of the United States, at any reasonable time and place for inspection and audit, all food instruments in the vendor's possession and all program related records.

- The vendor may not collect sales tax on Utah WIC food items or charge sales tax on the WIC food instrument.

- The vendor shall not accept any WIC food instrument in which the dates or the quantities/sizes of WIC prescribed foods have been altered and/or are missing.

- The vendor agrees not to decrease the amount of authorized food purchased in order to lower the total price of the food instrument below the Not to Exceed Limit.

- The vendor will not alter the quantities or sizes of WIC foods issued or the Not to Exceed limit on the food instrument. The vendor will not alter the written or numerical amount originally written on the food instrument so that it exceeds the estimated cost of the total food items for that food instrument.

- Report any abuse by a WIC participant to the Utah WIC Program.

- The WIC vendor agrees to remain in compliance with the limiting and selection criteria as outlined on page 7 throughout the agreement period. The State agency may reassess the vendor at any time during the agreement period. If the vendor fails to meet these criteria at any time during the agreement period, the vendor may be removed from the Utah WIC Program for Administrative non-compliance with these criteria,

after being given a thirty (30) day notification. The vendor has thirty (30) days in which to correct any failure to meet these criteria before removal from the Program. If the vendor has been removed from the Program because of administrative non-compliance for more than thirty (30) days and wishes to reapply to the Program, then vendor will be subject to the limiting and selection criteria.

- Stock sufficient authorized WIC foods in quantities and sizes in accordance to the Utah WIC Vendor Agreement and the Utah authorized food list.
- Submit a properly completed price survey quarterly or as requested, indicating the shelf prices of each indicated WIC food to the State Agency upon request.
- The vendor agrees to the sanctioning points and suspension/disqualification from the WIC program in accordance to the Vendor Sanction Section of this agreement.
- Any disqualification from the WIC Program due in whole or in part to violations that the State WIC Agency believes are included in the violation category specified in the Food Stamp Program regulations 7 CFR, §278.6 (e)(8), may result in the withdrawal from participation in the Food Stamp Program.
- Disqualification from the WIC Program may result in disqualification as a retailer in the Food Stamp Program. Such disqualification may not be subject to administrative or judicial review under the Food Stamp Program.
- The vendor agrees that claims may be demanded for payments already made by the WIC Program for charges of more than the estimated purchase of the supplemental foods. The vendor must submit the claim or an adequate justification for the excessive charge to the State Agency within (30) days of written notification.
- The vendor agrees that the Utah WIC Program is not responsible for losses incurred as a result of disqualification. A vendor shall not be entitled to receive any compensation for revenues lost as a result of disqualification.
- The vendor shall be responsible for all bank charges on WIC food instruments improperly submitted to the bank.
- The vendor agrees not to exchange cash, either give cash to the participant, or demand cash from the participant, in whole or in part for the redemption of WIC food instruments.
- The vendor agrees that the State Agency may direct and conduct compliance buys in order to verify and document WIC Program compliance.
- Home delivery vendors (dairies) will be paid only after the delivery of authorized supplemental foods to participants. A routine procedure must exist to verify correct delivery of authorized food items to participants, and, at a minimum, such verification occurs at least once a month after delivery and records of supplemental foods and bills sent for or payments received for such food items are retained for at least

three (3) years. Federal, State, and local authorities must have access to such records.

- The vendor agrees to hold the State, its officers, agents and employees harmless from liability of any nature whatsoever resulting from injuries or damages sustained by any person or persons or property by virtue of performance of this agreement.
- The vendor shall not assign or subcontract any of the services under this agreement, except with written consent of the State Agency.
- The WIC logo and acronym are registered trademarks of the United States Department of Agriculture and therefore the vendor is not authorized to utilize any aspect of the WIC logo or acronym in the name of the vendor nor display any WIC authorization identification other than provided or approved by the State Agency.
- This vendor agreement does not constitute a license or a property interest. If the vendor wishes to continue to be authorized beyond the period of its current agreement, the vendor must reapply for authorization. If a vendor is disqualified, the State agency will terminate the vendor's agreement, and the vendor will have to reapply in order to be authorized after the disqualification period is over. The vendor's new application will be subject to the State Agency's limiting and selection criteria at the time of reapplication.
- The vendor must comply with the vendor agreement and Federal and State statutes, regulations, policies, and procedures governing the Program, including any changes made during the agreement period. Non-compliance with the above regulations may result in suspension or disqualification from the WIC Program. Any vendor who commits fraud or abuse of the program is liable to prosecution under applicable Federal, State, or Local Laws. Those vendors who have willfully misapplied, stolen, or fraudulently obtained program funds shall be subject to a fine of not more than \$10,000 or imprisonment for not more than five years or both, if the value of the funds is \$100 or more. If the value is less than \$100, the penalties are a fine of not more than \$1,000 or imprisonment for not more than one year or both.
- The vendor is not entitled to receive any compensation for revenues lost as a result of a permanent disqualification.
- Nothing herein shall be construed to be inconsistent with the memorandum of understanding, executed by the US department of defense & the US department of agriculture, dated 3/7/1983, attached hereto & incorporated herein by reference.

State WIC Office Responsibilities:

The State WIC Office Shall:

- Approve and maintain all WIC Vendor Agreements.
- Reserve the right to demand refunds from the vendor for charges of more than the actual price for supplemental foods.

- Reconsider for payment all WIC food instruments not paid by the bank, provided the food instruments are submitted or inquiries made to the State Agency within ninety (90) days from the "First Day to Use".
- Disqualify a WIC vendor who has been assessed a disqualification by FSP.
- Reserve the right to deny payment to the food vendor for improper food instrument redemption.
- Disqualify a food vendor for reasons of Program abuse as outlined in the Vendor Sanctions Section.
- Ensure training and/or training materials are provided to all approved vendors.
- Monitor approved vendors regarding problems the State Agency might have with WIC transactions.
- Provide assistance to vendors by phone, written documentation or in person regarding problems they might have with WIC transactions (except for vendors with a finding or conviction of trafficking and FSP disqualifications).
- The State agency must ensure that no conflict of interest exists, as defined by applicable State laws, regulations, and policies, between the State agency and any vendor or home food delivery contractor under its jurisdiction. Terminate a vendor agreement if the State Agency determines that a conflict of interest exists between the vendor and the WIC Program, at either the State or Local level.
- Prior to disqualifying a food vendor, the State Agency will consider whether the disqualification would create undue hardships for WIC participants. An undue hardship will be defined as any vendor serving greater than thirty percent (>30%) of the WIC population for that participant zip code location or if there is no other WIC authorized vendor within ten (10) miles. In deciding whether or not to postpone adverse action until a hearing decision is rendered, the State Agency may consider any other relevant criteria in addition to the above.
- Conduct compliance purchases in order to verify and document WIC Program abuse committed by authorized vendors. A WIC vendor may be selected to be investigated at random or based on specific monitoring, complaints and/or redemption analysis findings.
- Disqualify a vendor that has been disqualified or assessed a civil money penalty in lieu of disqualification by another WIC State agency for a mandatory vendor sanction. The length of the disqualification must be for the same length of time as the disqualification by the other State agency or, in the case of a civil money penalty in lieu of disqualification assessed by the other State agency, for the same length of time for which the vendor would otherwise have been disqualified.
- Provide the vendor with a thirty (30) day written notice regarding any adverse action and the opportunity to appeal and/or correct the adverse action within thirty (30) days of the notification.
- Provide administrative reviews of sanctions to the extent required by §246.18.

Definitions

- Vendor - a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the State agency to provide authorized supplemental foods to participants under a retail food delivery system. Each store operated by a business entity constitutes a separate vendor and must be authorized separately from other stores operated by the business entity. Each store must have a single, fixed location
- Inventory Audit – The examination of food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient enough quantities of WIC food items to provide participants the quantities specified on food instruments redeemed by the vendor during a given period of time.
- Authorized supplemental foods – Those WIC food items authorized by the State agency for issuance to a particular participant.
- Compliance buy – A covert, on-site investigation in which a representative of the Program poses as a participant, parent or caretaker of an infant or child participant, or proxy, transacts one or more food instruments and does not reveal during the visit that he or she is a program representative.
- Vendor Overcharge – Intentionally or unintentionally charging the State agency more for authorized WIC food items than is permitted under the vendor agreement. For sanctions to be assessed against a vendor, overcharging must be established by a pattern of redemptions.

Appeals/Reviews

- The firm/individual/vendor has the right to appeal a State Agency decision within thirty (30) days of notification pertaining to denial of application to participate, suspension, disqualification or any other adverse action which affects participation during the contract or agreement performance period.
- The appeal/review procedures are available upon request and the applicable review procedures will be provided along with an adverse action subject to administrative review.
- Neither the State Agency nor the WIC Vendor have an obligation to renew the Vendor Agreement. The State Agency or the vendor may terminate the agreement for cause after providing at least thirty (30) days advance written notice. Expiration of a contract or agreement with a food vendor is not subject to appeal.
- The State agency may not provide administrative reviews to vendors that appeal the following actions: 1) the validity or appropriateness of the State agency's vendor limiting or selection criteria (§ 246.12(g)(2) and (g)(3)); 2) the validity or appropriateness of the State agency's participant access criteria and the State agency's participant access determinations; 3) the State agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not

aware of, did not approve of, and was not involved in the conduct of the violation (§ 246.12(t)(1)(i)(B)); 4) denial of authorization if the State agency's vendor authorization is subject to the procurement procedures applicable to the State agency; 5) the expiration of a vendor's agreement; 6) disputes regarding food instrument payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error, as permitted by § 246.12(k)(3); and 6) disqualification of a vendor as a result of disqualification from the Food Stamp Program (§ 246.12 (l)(1)(vii)).

F. Vendor Classifications

The vendor agrees that their place of business must be accessible to all WIC participants and will be classified as one of the following categories based on program definitions. A vendor cannot qualify for more than one category. Any fixed structure or building to which the participants must travel to obtain WIC food items will be considered a store category (categories 1, 2, or 5) and qualify as such. Any vendor who delivers WIC food items to the participant or will pre-select the WIC items, will be considered a dairy vendor. Store categories (1,2, and 5) must supply foods in a permanent fixed building or structure. Non-permanent and/or mobile food suppliers/vendors will be considered dairy vendors.

When classifying a vendor into a category, the criteria will include: 1) Geographic location; 2) Monthly food sales volume; 3) Large chain; Small chain; or Independent; 4) Number of cash registers; 5) Average price comparison with other vendors within the client service area or other vendors with similar categorization.

Category 1 – Chain, one of a group of stores of varying size which are owned by a single entity [individual(s) or corporation(s)]; operation within or outside the Wasatch front; with an average monthly food sales volume of <\$25,000; with the corporation; operating >5 stores within the state; having >5 cash registers per store; and with retail WIC prices within 5% of the lowest average retail WIC prices.

Category 2 – Small chain or Independent stores of varying size which are owned by an individual(s) and do not have combined buying power of a large group; operating within or outside of the Wasatch front; with an average monthly food sales volume of >\$25,000; operating > 5 stores within the state; having > 5 cash registers per store; and with retail prices comparable with 5% of similar categorized vendors.

Category 3 – Pharmacies, (Drug Stores) primarily selling products as prescription medicine, health care items, etc.

Category 4 – Home Delivery - Dairies, a sole proprietorship, partnership, cooperative association, corporation, or other business entity that contracts with the State agency to deliver fluid milk, eggs, and cheese only to the residences of participants.

Category 5 – Independent stores of varying size which are owned by an individual(s) and do not have the buying power of a group; operating outside the Wasatch front in rural or frontier areas; with an average monthly food sales of >\$25,000; operating >3 stores within the state; having > 3 cash registers; and with retail prices comparable with 5% of similar categorized vendors.

Food Stocking Requirements

The vendor agrees to have on the shelf for purchase a reasonable choice of authorized WIC foods as listed under the category of vendor.

A. Category 1 – Chain stores agree to have on the shelf and stock the following minimum types and quantities of WIC food items:

1) Infant formula: Milk based—Enfamil with Iron (Mead Johnson) and Soy-based—Enfamil Soy (Mead Johnson); Quantity on shelf—twelve (12) cans of powder of each brand on the shelf; and thirteen (13) cans of concentrate of each brand on the shelf. Quantity in stock—the vendor agrees to acquire sufficient quantities of Enfamil with iron and Enfamil Soy infant formula, above the minimum shelf requirements, in order to redeem WIC checks being presented at the vendor site. The vendor agrees to acquire other brands of infant formula, when required to redeem WIC checks, without causing participant inconvenience or hardship.

2) Infant cereal, at least one variety without fruit in 8 oz. and 16 oz. sizes; quantity in stock—eight (8) 8 oz. boxes and four (4) 16 oz. boxes.

3) Whole, 2%, 1%, or skim milk in gallons, half-gallons, and quart sizes; quantity in stock—ten (10) gallons, ten (10) half-gallons, and six (6) quarts.

4) Evaporated milk, at least two (2) brands in 12 oz. cans; quantity in stock—ten (10) cans.

5) Cheese, at least two (2) authorized types in 1 lb. packages (packages under 1 lb. can combine to total 1 lb.); quantity in stock—ten (10) packages of varying sizes of authorized types. No sliced cheese, cheese foods, deli items, cheese products or spreads.

6) Authorized WIC cereals, at least six (6) brands; quantity in stock—two (2) boxes of each brand.

7) Juice, at least two (2) authorized brands of 12 oz. frozen juice; quantity in stock—six (6) cans of each brand and size.

8) Eggs, authorized size and type; one (1) dozen; quantity in stock—ten (10) dozen.

9) Peanut butter, authorized size and type, at least two (2) brands in 18 oz. size; quantity in stock—eight (8) jars of each brand.

10) Dried peas/beans, authorized size and type in 1 lb. packages; at least three (3) authorized brands; quantity in stock—four (4) packages of each brand.

11) Tuna fish, at least one (1) authorized brand in 6 1/8 oz. size; quantity in stock—twelve (12) cans.

12) Carrots, fresh; at least one (1) authorized brand in 2 lb. prepackaged size; quantity in stock—eight (8) individual prepackaged bags.

B. Category 2 – Stores agree to have on the shelf and stock the following minimum types and quantities of WIC food items:

1) Infant formula: Milk based—Enfamil with Iron (Mead Johnson) and Soy-based—Enfamil Soy (Mead Johnson); Quantity on shelf—six (6) cans of powder of each brand on the shelf; and six (6) cans of concentrate of each brand on the shelf. Quantity in stock—the vendor agrees to acquire sufficient quantities of Enfamil with iron and Enfamil Soy infant formula, above the minimum shelf requirements, in order to redeem WIC checks being presented at the vendor site. The vendor agrees to acquire other brands of infant formula, when required to redeem WIC checks, without causing participant inconvenience or hardship.

2) Infant cereal, at least one variety without fruit in 8 oz. and 16 oz. sizes; quantity in stock—six (6) 8 oz. boxes and three (3) 16 oz. boxes.

3) Whole, 2%, 1%, or skim milk in gallons, half-gallons, and quart sizes; quantity in stock—four (4) gallons, four (4) half-gallons, and four (4) quarts.

4) Evaporated milk, at least one (1) brand in 12 oz. cans; quantity in stock—five (5) cans.

5) Cheese, at least two (2) authorized types in 1 lb. packages (packages under 1 lb. can combine to total 1 lb.); quantity in stock—five (5) packages of varying sizes of authorized types. No sliced cheese, cheese foods, deli items, cheese products or spreads.

6) Authorized WIC cereals, at least four (4) brands; quantity in stock—two (2) boxes of each brand.

7) Juice, at least two (2) authorized brands of 12 oz. frozen juice; quantity in stock—four (4) cans of each brand and size.

8) Eggs, authorized size and type; one (1) dozen; quantity in stock—six (6) dozen.

9) Peanut butter, authorized size and type, at least one (1) brand in 18-oz. size; quantity in stock—four (4) jars.

10) Dried peas/beans, authorized size and type in 1 lb. packages; at least two (2) authorized brands; quantity in stock—three (3) packages of each brand.

11) Tuna fish, at least one (1) authorized brand in 6 1/8 oz. size; quantity in stock—eight (8) cans.

12) Carrots, fresh; at least one (1) authorized brand in 2 lb. prepackaged size; quantity in stock—four (4) individual prepackaged bags.

C. Category 3 – Pharmacies agree to make available upon request:

1) Special formulas: (Nutramigen, Pregestimil, and other formulas as requested). A pharmacy vendor is authorized to redeem only special infant formulas. No other food items can be purchased at a pharmacy vendor unless accompanied by a special formula/food letter on government letterhead from the clinic of issuance.

D. Category 4 – Dairies agree to deliver and make available upon request:

1) Milk, (fluid only) Whole, 2%, 1%, skim, non-fat or buttermilk in quarts, half-gallons, and gallon sizes.

2) Cheese, at least two (2) authorized types in 1-lb. sizes. No sliced cheese, cheese foods, deli items, cheese products or spreads.

3) Eggs, one dozen large.

No other WIC food items shall be delivered.

E. Category 5 – Stores agree to have on the shelf and stock the following minimum types and quantities of WIC food items:

1) Infant formula: Milk based—Enfamil with iron (Mead Johnson) and Soy-based—Enfamil Soy (Mead Johnson); Quantity on shelf—four (4) cans of powder of each brand on the shelf; and four (4) cans of concentrate of each brand on the shelf. Quantity in stock—the vendor agrees to acquire sufficient quantities of Enfamil with iron and Enfamil Soy infant formula, above the minimum shelf requirements, in order to redeem WIC checks being presented at the vendor site. The vendor agrees to acquire other brands of infant formula, when required to redeem WIC checks, without causing participant inconvenience or hardship.

2) Infant cereal, at least one variety without fruit in 8 oz. size; quantity in stock—two (2) 8 oz. boxes.

3) Whole, 2%, 1%, or skim milk in gallons, half-gallons, and quart sizes; quantity in stock—two (2) gallons, two (2) half-gallons, and two (2) quarts.

4) Evaporated milk, at least one (1) brand in 12 oz. cans; quantity in stock—two (2) cans.

5) Cheese, at least one (1) authorized type in 1 lb. package (packages under 1 lb. can combine to total 1 lb.); quantity in stock—two (2) packages of varying sizes of authorized types. No sliced cheese, cheese foods, deli items, cheese products or spreads.

6) Authorized WIC cereals, at least two (2) brands; quantity in stock—two (2) boxes of each brand.

7) Juice, at least two (2) authorized brands of 12 oz. frozen juice; quantity in stock—two (2) cans of each brand and size.

8) Eggs, authorized size and type; one (1) dozen; quantity in stock—two (2) dozen.

9) Peanut butter, authorized size and type, at least one (1) brand in 18-oz. size; quantity in stock—two (2) jars.

10) Dried peas/beans, authorized size and type in 1-lb. packages; at least one (1) authorized brand; quantity in stock—one (1) package.

11) Tuna fish, at least one (1) authorized brand in 6 1/8 oz. size; quantity in stock—four (4) cans.

12) Carrots, fresh; at least one (1) authorized brand in 2 lb. prepackaged size; quantity in stock—two (2) individual prepackaged bags

VENDOR AUTHORIZATION – LIMITING AND SELECTION CRITERIA

Vendor Authorization – Vendor authorization is the process by which the State Agency assesses, selects, and enters into agreements with stores that apply or subsequently reapply to be authorized as WIC vendors.

Vendor Limiting and Selection Criteria – The Utah WIC Program will authorize an adequate number of vendors in order to provide access to acquire WIC food items and provide a vendor population that is cost-effective and can be efficiently managed by the State and local WIC agencies. Any vendor that is rejected cannot reapply for application of Limiting or Selection Criteria for thirty (30) days. Application documentation and records are valid for forty-five (45) days from the on-site pre-authorization visit.

Vendor Limiting Criteria – Vendor limiting criteria is established by the State agency to determine the maximum number and distribution of vendors it authorizes pursuant to §246.12(g)(2) of the Federal Register

When a vendor requests application for participation, the State Agency will examine the following Vendor Limiting Criteria to determine if the vendor is needed for the clinic service area prior to authorization:

- 1) **Participant/vendor zip code ratio limitation**: No vendor shall be accepted nor have their agreement renewed on the Utah WIC Program if the participant/vendor ratio is less than 150:1 for matching participant/vendor zip codes in Cache, Weber, Davis, Salt Lake and Utah Counties or less than 50:1 for matching participant/vendor zip codes in the remaining counties or for out of State vendors.
- 2) **Competitive price and price limitations**: All vendors will be ranked according to their retail price of their WIC food commodities from the lowest to the highest. Only the required number of vendors with the lowest priced WIC food items according to the vendors price survey, needed to maintain the minimum participant/vendor ratio, will be accepted for authorization or allowed to renew the vendor agreement.

Additional vendors beyond the minimum participant/vendor ratio may be accepted or allowed to renew, if their prices on WIC food items are within 5 percent (5%) of the lowest priced vendors in the zip code location.

- 3) **Limiting Criteria Exceptions**: Exceptions to the zip code participant/vendor ratio are: 1) Pharmacies; 2) Military Commissaries; 3) Vendors in rural areas where the vendor's zip code is different from the majority of participant's zip codes or if the vendor is located outside the State of Utah.

Vendor Selection Criteria – Having completed the Vendor Limiting Criteria, the vendor is now in a position to be evaluated for selection to the Utah WIC Program. The vendor agrees to an on-site pre-authorization evaluation and training by a State and/or local agency WIC staff person. The State/local agency

representative has fifteen (15) days from the vendor request for an on-site pre-authorization evaluation, after the limiting criteria have been applied, to conduct the actual on-site visit. The State agency has ten (10) days from the date the completed on-site pre-authorization evaluation is received at the State Agency until a notification letter is sent regarding authorization or rejection.

The vendor agrees to meet or exceed the minimum Selection Criteria in order to be accepted as a Utah authorized WIC vendor.

Minimum Selection Criteria – Vendor selection criteria means the criteria established by the State agency to select individual vendors for authorization consistent with the requirements in §246.12(g)(3) of the Federal Register.

- 1) **Competitive price and price limitations**: The price of each WIC eligible food item does not exceed by five (5) percent the average price of the same WIC eligible food in other WIC authorized vendors in the same zip code location. If the majority of the vendors in the zip code location are of one category, then the price comparison will be based on that category of vendor. Where no majority exists, the vendor will be compared to other vendors in the same category.

- 2) **Minimum variety and quantity of supplemental foods**: Vendor has on the shelf and in stock the minimum variety and quantity of WIC eligible food items with prices plainly marked on the product or shelf according to the assigned vendor category.

- 3) **Business Integrity**: Unless denying authorization of a vendor applicant would result in inadequate participant access, the State Agency may not authorize a vendor applicant if during the last six (6) years the vendor applicant or any of the vendor applicant's current owners, officers, or managers have been convicted of or had a civil judgement entered against them for any activity indicating a lack of business integrity. Activities indicating a lack of business integrity include fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice.

- 4) **Current Food Stamp Program disqualification or civil money penalty for hardship**: Unless denying authorization of a vendor applicant would result in inadequate participant access, the State Agency may not authorize a vendor disqualified from the Food Stamp Program or that has been assessed a Food Stamp civil money penalty for hardship and the disqualification period that otherwise have been imposed has not expired.

- 5) **Sale of a store to circumvent WIC sanction**: The State Agency may not authorize a vendor applicant if the State Agency determines the store/business has been sold to circumvent a WIC sanction. This criteria

will include 1) opening a different store under a new name to circumvent a sanction; 2) selling the store to a relative by blood or marriage to circumvent a sanction; or 3) selling the store to an individual or organization for less than the fair market value to circumvent a sanction.

6) Current WIC disqualification and sanctions: The State Agency may not authorize a vendor applicant if the State Agency determines if: 1) any vendor has been disqualified from Utah or any other State Agency/ITO WIC Program for two (2) or more years as a result of a disqualification activity by the vendor, one of its current employees whose duties include handling WIC food instruments, or owners, officers, directors, or partners; 2) any vendor who has requested a termination from the Utah WIC Program with an outstanding reimbursement for overcharge or Program administrative cost; 3) any vendor has failed to take requested action by the Utah WIC Program within thirty (30) days after notification by certified letter, or failure to provide requested data or records, or failure to allow monitoring of the vendor, or failure to attend or complete required training sessions.

7) Participant activity for vendor authorization: There is an established need for this particular vendor by at least ten (10) WIC participants for clinics serving 500 WIC participants or less within any county; or by twenty (20) WIC participants for clinics serving more than 500 participants in any county.

VENDOR SANCTIONS

The State Agency shall determine the type and level of sanctions to be applied against food vendors based upon the severity, nature and pattern of the Program violations observed, and such other factors as appropriate (for example: whether the offenses represented vendor policy or whether they represent the actions of an individual employee who did not understand the Program Rules.

Definitions:

Vendor violation – Any intentional or unintentional action of a vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the vendor agreement or Federal or State statutes, regulations, policies, or procedures governing the Program.

Investigation – a method used by the State Agency to determine if violations are occurring.

Violation – an infraction of program regulations, policies or agreements.

Sanction – an administrative action taken as a result of a violation.

Pattern – based on the number and severity of the incidences of the violation

- The State Agency does not have to provide the vendor with prior warning that violations were occurring before imposing any of the sanctions described.

8) Hours of operation: The hours of operation are appropriate for participant access—minimum of 8 hours of operation per day; 3 hours must be A.M.; five (5) days a week; except for dairy, pharmacies, and military commissaries.

9) Exceptions to Selection Criteria: Exceptions to selection criteria #7, and #8 may be made if there are no other WIC vendors within twenty (20) miles or if a vendor is required for participant access.

Any vendor who attempts to redeem Utah WIC food instruments prior to receiving the authorization letter and the vendor stamp will be subject to rejection of the food instruments and loss of payment plus an additional thirty (30) day waiting period before authorization.

Reauthorization – At the end of the agreement period as assigned by the State Agency, the vendor may be requested to apply for renewal of the agreement. The vendor agrees to read and sign the new agreement, complete all applicable required information, and return the renewal forms and agreement to the Utah WIC Program by the designated time frames. Renewal of the agreement will be based upon both the Vendor Limiting Criteria and Vendor Selection Criteria. Expiration of a contract or agreement with a food vendor is not subject to appeal. Neither the State agency nor the WIC vendor have an obligation to renew the vendor agreement.

- Establishing a pattern of violations. Those violations identified as requiring a pattern are assigned sanctions based upon at least three (3) independent documented repeated violations during any compliance investigation or during any thirty (30) day period. The severity of an overcharge will be taken into account in establishing a pattern of vendor overcharges. Additional investigative procedures, training and/or monitoring may be performed before the establishment of mandatory sanctions.

- When conducting inventory audits, a pattern can be established during a single review of the vendor's redemption records and depends on the magnitude of shortfalls and the period of time over which they occur. A pattern of violations does not need to be present when applying a permanent disqualification as outlined.

- When more than one violation is detected during a single investigation, the disqualification period will be based on the most serious violation.

- The State Agency may not accept voluntary withdrawal of a vendor from the WIC Program as an alternative to disqualification.

Mandatory Disqualifications and Sanctions

Mandatory disqualification periods are assigned for the following WIC violations in according to 7 CFR §246.12:

Permanent Disqualification from the WIC Program

- 1) A vendor convicted of trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21U.S.C. 802)) in exchange for food instruments
- 3) Permanent Disqualification from Food Stamps

Six (6) Year Disqualification from the WIC Program

- 1) One incidence of buying or selling food instruments for cash (trafficking); or
- 2) One incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food instruments.

Three (3) Year Disqualification from the WIC Program

- 1) One incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for food instruments;
- 2) A pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item which exceeds the store's documented inventory of that supplemental food item for a specific period of time;
- 3) A pattern of vendor overcharges;
- 4) A pattern of receiving, transacting and/or redeeming food instruments outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;
- 5) A pattern of charging for supplemental food not received by the participant; or
- 26) A pattern of providing credit or non-food items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, in exchange for food instruments.

One (1) Year Disqualification from the WIC Program

- 2) A pattern of providing unauthorized food items in exchange for food instruments, including charging for supplemental foods provided in excess of those listed on the food instrument.

Second Mandatory Sanction

- 1) When a vendor, who previously has been assessed a sanction for any of the mandatory sanctions listed above, receives another sanction for any of these violations, the State agency must double the second sanction. Civil money penalties may only be doubled up to the limits allowed as defined by this agreement

Third or Subsequent Mandatory Sanction.

- 2) When a vendor, who previously has been assessed two or more sanctions for any of the mandatory sanctions listed above, receives another sanction for any of these violations, the

State agency must double the third sanction and all subsequent sanctions. The State agency may not impose civil money penalties in lieu of disqualification for third or subsequent mandatory sanctions.

Disqualification from the WIC Program Based on a Food Stamp Program Disqualification.

- 1) The State agency will disqualify a vendor who has been disqualified from the Food Stamp Program. The disqualification will be for the same length of time as the Food Stamp Program disqualification. The WIC disqualification may begin at a later date than the Food Stamp Program disqualification, and is not subject to administrative or judicial review under the WIC Program.

B. Civil Money Penalties in Lieu of Disqualification

- The State agency may impose a civil money penalty in lieu of a permanent disqualification when it determines, in its sole discretion and documents that
 - 3) Such action would result in inadequate participant access;
 - 4) The vendor had, at the time of the violation, an effective policy and training program in effect to prevent trafficking; and the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation. Any documented policies must have been dated in written form and the training documented prior to the violation;
- The State agency may impose a civil money penalty in lieu of a six (6) to one (1) year mandatory disqualification when it determines, in its sole discretion and documents that
 - 2) Such action would result in inadequate participant access
- If the State Agency permits a vendor to continue to participate in the Program in lieu of permanent disqualification, the State Agency shall assess the vendor a civil money penalty in an amount determined by the State Agency and in accordance with the following criteria:
 - 5) the amount of civil penalty shall not exceed \$10,000 for each violation;
 - 6) the amount of civil penalties imposed for violations investigated as part of a single investigation may not exceed \$40,000
 - 7) If more than one violation is detected during a single investigation, a civil money penalty must be imposed for each violation (up to the \$10,000/\$40,000 limits)
 - 8) If a vendor does not pay, only partially pays, or fails to timely pay (includes failure to pay with an installment plan) a civil money penalty within thirty (30) days of receipt of a notification letter, the State Agency will disqualify the vendor for the length of the disqualification corresponding to the

violation for which the civil money penalty was assessed.

- Formula for calculation of civil money penalties: multiply average redemptions by 10%; multiply result by the number of months for which the vendor would be disqualified. Civil money penalties in lieu of permanent disqualification are for \$10,000 per violation.

- The State Agency may allow an installment plan to be utilized for the payment of civil money penalties provided that the installment plan is in compliance with Federal and State laws concerning the collection of interest on such debts.

Other Violations and Points for Violations

- Sanctioning points can be assigned for each single occurrence of that violation which is documented during any redemption analysis, monitoring visit(s), other formal visit(s) or follow-up of previous problems, inventory audits, or any other objective means.

- All points are cumulative and will be kept current for a period of two (2) years as long as the vendor is authorized on the Program. Points accrued for each violation will be erased two (2) years after the date of the violation regardless of a renewal of a vendor agreement.

- Food vendors may be subject to sanction points in addition to claims for improper or overcharged food instruments.

- The following violations are assigned specific sanction points. Sanctions are commensurate with the number of points accumulated for one or more of these violations in any combination:

Any combined total of:

5 - 7 points = Warning letter

8 - 14 points = Initial or follow-up warning letter with required training.

15 points = 3 month disqualification

16 - 17 points = 6 month disqualification

18 - 19 points = 9 month disqualification

20 or > points = 1 year disqualification

- Failure to attend or complete mandatory training sessions as outlined in the WIC Vendor Agreement after one mutual opportunity to reschedule..... 15
- Failure to provide inventory records during monitoring visits or when requested to do so by the State Agency 15
- Failure to maintain adequate supply of WIC foods in accordance to the category of Vendor identified during three compliance purchases or after being given one opportunity to correct the inadequacy per finding during monitoring or any store visits..... 8
- Discrimination against a WIC participant 8
- Knowingly providing cash, credit, non-food, or substitution of any authorized WIC food items in lieu or exchange of WIC food items returned to the store purchased with WIC food instruments..... 8

- Failure to reimburse/refund the State Agency for requested claims for overcharge thirty (30) days after receiving a certified letter 8
- Failure to provide training to all employees who handle WIC transactions or failure to allow monitoring or training of the vendor by WIC representatives or failure to provide food instruments for review when requested during monitoring of the vendor..... 8
- The price of any WIC eligible food item has exceeded five percent (5%) above the average price of the same WIC eligible food item in other WIC authorized vendors in the same category or client service area after a thirty (30) day notification of the discrepancy by certified mail..... 8
- Requiring cash to be paid in whole or part to redeem food instruments 8
- Knowingly entering false information or altering information on the WIC food instrument 5
- Failure to provide pricing records during monitoring visits or when requested to do so by the State Agency..... 5
- A pattern of charging sales tax on WIC food items 5
- Discourteous treatment of a WIC participant ... 5
- A pattern of failure to record the purchase price on the food instrument..... 4
- Contacting WIC participants to correct discrepancies as a result of non-payment or in an attempt to recover funds for food instruments not paid by the State Agency or those food instruments where refunds were requested for overcharge. 3
- Decreasing the amount of food purchased by the WIC client in order to lower the total price of the food instrument below the Not to Exceed Limit 3
- Duplication or using an unauthorized, lost, or stolen stamp..... 2
- Failure to report a lost or stolen stamp within two (2) working days 2
- Prices not clearly marked on food item or shelf 2
- Acceptance and submission of WIC food instruments with counter-signatures (missing or do not match), stale date, alteration of price or date, failure to place the authorized vendor stamp on the front prior to deposit, redemption prior to the "First Day to Use" or redemption greater than the "Last Day to Use", in any combination per month, greater than 1% of the total WIC food instruments redeemed by that vendor based on the previous month's redemption..... 2
- Acceptance and submission of a WIC food instrument for an amount not in accordance with the vendor agreement. (1 point per month for any food instruments redeemed during that month)..... 1

- Failure to accept a certified letter from the State WIC Agency after two attempts at delivery 1
- Obtaining the participant's countersignature on the WIC food instrument before the purchase price was entered by the vendor..... 1
- Requesting a WIC participant to produce any additional forms of ID other than the WIC ID card when redeeming WIC food instruments..... 1
- Stocking or selling out of date WIC food commodities to WIC participants. This will include any WIC product that has a specific expiration date, sell by, best if sold by or similar wording with a date printed on the container.. 1

- The vendor will be notified in writing regarding any points assessed and the type of violation(s) found.
- All vendors with 8-14 points will be required to receive training by the State or Local Agency on the violation(s) in question within thirty (30) days of the notice of awarding the sanctioning points. This training will be documented and sent to the State WIC Office.
- The Utah WIC Program shall provide the appropriate FNS (Food and Nutrition Service) Food Stamp Program office with a copy of the notice of administrative action and information on vendors it has either imposed a civil money penalty in lieu of disqualification or disqualified from the WIC Program based in whole or in part of any act which constitutes a violation of that program's regulation and which is shown to constitute a misdemeanor or felony violation of law, or for any of the following specific program violations:

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- 7) A pattern of claiming reimbursement for the sale of an amount of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time
- 8) Exchanging cash, credit or consideration other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances, as defined in section 802 of title 21 of the United States Code, for food instruments;
- 9) A pattern of receiving, transacting and/or redeeming WIC food instruments outside of authorized channels
- 10) A pattern of exchanging non-food items for a WIC food instruments
- 11) A pattern of charging WIC customers more for food than non-WIC customers or charging WIC customers more than current shelf price
- 12) A pattern of charging for food items not received by the WIC customer or for foods provided in excess of those listed on the food instruments

. 7 CFR Section §246.12

STATEMENT OF VENDOR

A separate application must be made for each **store, pharmacy** [within the store] **or dairy**. The named firm/individual listed on page 1 of this document is applying to the Utah Department of Health for authorization to participate as a vendor in the Utah WIC Program. The firm/individual has read and understands the policies and regulations for vendors included in this document containing 13 of 13 pages. The firm/individual understands that failure to adhere to the policies and regulations will result in suspension or disqualification as an authorized vendor. The undersigned indicates that he/she is the representative of the vendor who has legal authority to obligate the vendor. The original document containing the original signatures will validate the agreement with the Utah State WIC Agency. No copies or electronic signatures will be accepted. The firm/individual asserts that all statements in this application are true and correct and understands that the supplying of any false information will result in the withdrawal of approval to participate in the WIC Program. **7 CFR Section §246.12**

Date _____ Print Name _____

Title _____ Signature _____

This agreement has a maximum length of three (3) years and becomes null and void upon the suspension date completed by the State Agency below, upon closure of the store/dairy/pharmacy or change of ownership of the vendor, or termination of this agreement by the State Agency or vendor. If changes of a corporate nature occur maintaining the continuity of ownership, without changing key management positions or store personnel, then the vendor need only sign a new agreement with the State Agency. The State agency will immediately terminate the agreement if it determines that the vendor has provided false information in connection with its application for authorization and information obtained during application of the limiting and selection criteria. The State Agency will terminate this agreement on not less than thirty (30) days written notice due to: changes in the present agreement which would require all authorized vendors to complete a new agreement; failure of the vendor to fulfill in a timely and satisfactory manner, its obligations under this agreement; unavailability or decrease in federal or state funding; participant caseload management to effectively manage funding; a change in the Federal Regulations or recommended change which results in the necessity to decrease the number of vendors to maintain a cost-effective Program or alters the way vendors are selected, qualified, accumulation of sanctioning points, disqualification; and fraud or abuse of the WIC Program as described in the Agreement.

Return to:

**Utah Department of Health
Division of Community & Family Health Services;
Utah WIC Program-Vendor Management
PO Box 141013
Salt Lake City, Utah 84114-1013**

P R O G R A M U S E O N L Y

Approval Date _____ Approving Signature _____

Vendor Number _____ Suspension Date _____ **SEPTEMBER 30, 2004**
